



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 21.02.2022**

**CORAM**

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**W.P. (MD) No. 3250 of 2022 and  
W.M.P. (MD) No. 2851 of 2022**

A.Kumarasamy,  
S/o.Arunachalam,  
Secondary Grade Teacher,  
Panchayat Union Middle School,  
Ayyankarisalkulam, Pudhur Union,  
Kovilpatti Education District,  
Thoothukudi District.

... Petitioner

Vs.

1. The Commissioner of School Education,  
College Road,  
Nungambakkam, Chennai.
2. The Director of Elementary Education,  
College Road,  
Nungambakkam, Chennai.
3. The Chief Educational Officer,  
Tuticorin District, Tuticorin.
4. The District Educational Officer,  
Kovilpatti Educational District,  
Kovilpatti,  
Tuticorin District.
5. The Block Educational Officer,  
Pudhur Union-1,  
Kovilpatti Education District,  
Tuticorin District.
6. The Block Educational Officer,  
Pudhur Union-2,  
Kovilpatti Education District,  
Tuticorin District.

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents 3 to 6, promote the petitioner herein to the post of B.T



Assistant (Science) Teacher, in the existing vacancy available at Mettilpatti Panchayat Union Middle School, Pudur Union-2 by considering the representation of the petitioner dated 09.02.2022.

For Petitioner : Mr.M.Thirunavukarasu  
For Respondents : Mr.N.Ga.Nataraj  
Government Advocate

### **O R D E R**

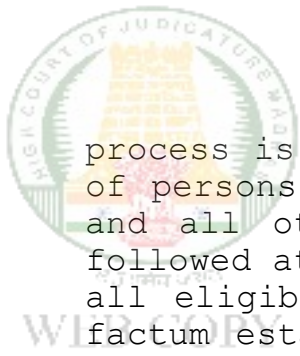
The relief sought for in the present Writ Petition is to direct the respondents 3 to 6 to promote the petitioner to the post of B.T Assistant (Science) Teacher, in the existing vacancy available at Mettilpatti Panchayat Union Middle School, Pudur Union-2 by considering the representation of the petitioner dated 09.02.2022.

2. Promotion *per se* cannot be claimed as a right by the Government employees. However, consideration for promotion is a fundamental right of the employees. Thus, all the employees who are all fully qualified in accordance with the rules must be considered for promotion whenever the process of promotion is undertaken by the Competent Authority. Thus, promotion cannot be given at the choice of the employees. However, if the process is commenced, then the eligible employees acquire right to consider their claim in accordance with the rules and as per their seniority.

3. This being the principles, the facts of the present case reveals that the petitioner claims to be a senior most Secondary Grade Teacher in the District and though he participated in the counselling and the vacancies were available, he was not promoted.

4. The learned counsel appearing for the petitioner made a submission that when the vacancies are available for the post of B.T Assistant (Science), the petitioner ought to have been considered for the promotion to the post.

5. When this Court asked a question, whether any junior to the petitioner was promoted, the learned counsel fairly made a submission that no junior was promoted. Thus, the right of the petitioner has not been infringed. The petitioner is entitled for a relief only if a right is established or the right which is accrued is infringed, but not otherwise. Therefore, in the absence of anyone of the above pre-conditions, no right needs to be entertained. Mere representation would not confer any right for promotion. Based on the representation, the Authorities cannot grant promotion. An administrative decision is to be taken by the Department for the purpose of filling up of the post and once such decision is taken by the Competent Authority, then the claims of all eligible persons are to be considered by strictly following the rules in force. Therefore, the case of the petitioner is also to be considered whenever the decision is taken to fill up the vacancies and the



process is undertaken for grant of promotion by preparing the panel of persons fit for promotion. The seniority is also to be followed and all other terms and conditions of the rules are also to be followed at the time of considering the claim of the persons who are all eligible for the promotion to the higher post. This being the factum established, the Writ Petition is pre-mature and the relief as such sought for cannot be granted.

6. Accordingly, this writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vji

To

1. The Commissioner of School Education,  
College Road,  
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Chennai.
2. The Director of Elementary Education,  
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3. The Chief Educational Officer,  
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Tuticorin District.
5. The Block Educational Officer,  
Pudhur Union-1,  
Kovilpatti Education District,  
Tuticorin District.



6. The Block Educational Officer,  
Pudhur Union-2,  
Kovilpatti Education District,  
Tuticorin District.

+1 CC to M/s.M.THIRUNAVUKKARASU, Advocate ( SR-7634[F] dated  
22/02/2022 )

+1 CC to M/s.SPL GP ( SR-7780[F] dated 22/02/2022 )

**W.P. (MD) No. 3250 of 2022  
and**

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21.02.2022**

MGJ(17.03.2022) 4P 9C