



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY

W.P. (MD) Nos.4062, 4068, 4073, 4098 & 4101 of 2021

and

W.M.P. (MD) Nos.3262, 3264, 3266, 3267, 3269, 3270, 3297, 3299, 3301, 3303 of 2021

A.Kumar ... Petitioner in WP(MD) No. 4062 of 2021

J.Sangeetha ... Petitioner in WP(MD)No. 4068 of 2021

R.Nagalakshmi ... Petitioner in WP(MD)No. 4073 of 2021

T.V.Raja Rajeshwari ... Petitioner in WP(MD)No. 4098 of 2021

P.Maheshwaran ... Petitioner in WP(MD)No. 4101 of 2021

vs.

The State of Tamil Nadu,
rep. by its Secretary to Government
School Education Department,
Fort St.George, Chennai-600009

The Director of Elementary Education,
D P I Complex, College Road
Chennai-600006 .. Respondents 1 & 2 (in all cases)

The Chief Educational Officer,
Pudukkottai,
Pudukkottai District .. 3rd Respondent in WP(MD). No. 4062,
4073, 4098 & 4101 of 2021

The Chief Educational Officer,
Sivagangai,
Sivagangai District .. 3rd Respondent in WP(MD).No. 4068 of 2021

The District Educational Officer,
Aranthangi,
Pudukkottai District .. 4th Respondent in WP(MD). No. 4062 &
4098 / 2021



The District Educational Officer,
Devakottai,
Sivagangai District .. 4th Respondent in WP(MD). No.4068 of 2021

The District Educational Officer,
Pudukottai,
Pudukottai District .. 4th Respondent in WP(MD).No.4073 &
4101 of 2021

The Block Educational Officer,
Aranthangi,
Pudukkottai District .. 5th Respondent in WP(MD). No. 4062 &
4098 / 2021

The Block Educational Officer,
Devakottai Block,
Sivagangai District .. 5th Respondent in WP(MD).No. 4068 of 2021

The Block Educational Officer,
Thirumayam Block,
Pudukottai District .. 5th Respondent in WP(MD). No. 4073 of 2021

The Block Educational Officer,
O/o the Block Educational Office
Pudukottai Pudukottai District
.. 5th Respondent in WP(MD). No. 4101 of 2021

Common Prayer in W.P.(MD) Nos.4062, 4068, 4073, 4098 & 4101 of 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to promote the petitioner as Head Master of the Middle School taking into consideration of the petitioners seniority in the cadre of B.T Assistant in accordance with Section 41 of the Tamil Nadu Govt. Servants (Conditions of Service) Act, 2016 within the period that may be stipulated by this Honble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr.Venkatesh Kumar.C.
For M/S.Ajmal Association (all cases)

For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader (all cases)



C O M M O N O R D E R

The relief sought for in the present writ petitions is to direct the respondents to promote the petitioners as Headmasters of Middle Schools taking into consideration of their seniority in the cadre of B.T.Assistant in accordance with Section 41 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 (for brevity, "the Act") within the period stipulated by this Court.

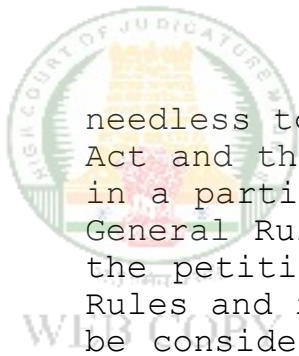
2. The petitioners state that they were appointed as B.T.Assistants through direct recruitment and subsequently, their services re regularized. The petitioners further state that they are fully qualified for promotion to the post of Middle School Headmaster. The posts of B.T.Assistant and Elementary School Headmaster are the feeder categories for promotion to the post of Middle School Headmaster and the post of Elementary School Headmaster is the feeder category for promotion to the post of B.T.Assistant as well.

3. This Court is of the considered opinion that promotion per se cannot be claimed as a matter of right. Consideration for promotion is a right of an employee. All promotions are to be granted strictly in accordance with the Promotion Rules in force. Thus, whenever an administrative decision is taken to fill up the vacancies by promotion, the name of eligible persons are to be considered in accordance with the Rules in force. This being the principles to be followed, the relief as such sought for cannot be granted. However, the case of the petitioners is to be considered in accordance with promotion rules in force.

4. The learned counsel for the petitioners reiterated that seniority and promotion of the petitioners is to be considered with reference to Section 41 of the Act.

5. Section 41 of the Act enumerates about promotion. The second proviso to Section 41 of the Act states that if the scale of pay or pay band of posts in the feeder categories are different, the persons holding post carrying a higher scale of pay or pay band in the feeder category shall be considered first and that, if no qualified and suitable persons holding post in that feeder category are available, the persons holding post carrying the next higher scale of pay or pay band in descending order in other feeder categories shall be considered.

6. The Act provides certain general principles in the matter of promotion. However, various Departments are having Special Rules in respect of various cadres. The Special Rules will prevail over the General Act. Thus, in the event of any Special Rules which is to be followed for grant of promotion, General Rules are to be followed in accordance with the procedures. It is



needless to state that there cannot be any inconsistency between the Act and the Rules. However, with reference to the particular cadre in a particular Department, the Special Rules will prevail over the General Rules. This being the facts and circumstances, the case of the petitioners is to be considered in accordance with the Special Rules and in the absence of any such Special Rules, their case is to be considered under the provisions of the Act and by following the procedures as contemplated under law.

7. The learned counsel for the petitioners made a submission that juniors to the petitioners have been promoted.

8. However, no such junior has been impleaded as party respondent in the present writ petitions. However, the respondents shall verify the same and accordingly, initiate all appropriate actions in the manner known to law.

9. With the above observations, the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

krk

To:

1.The Secretary to Government
The State of Tamil Nadu, School Education Department,
Fort St.George, Chennai-600009

2. The Director of Elementary Education,
D P I Complex, College Road, Chennai-600006

3. The Chief Educational Officer, Pudukkottai,
Pudukkottai District

4. The Chief Educational Officer, Sivagangai,
Sivagangai District

5. The District Educational Officer, Pudukkottai,
Pudukkottai District

6. The District Educational Officer, Aranthangi,
Pudukkottai District



7. The District Educational Officer, Devakottai,
Sivagangai District

8. The Block Educational Officer, Aranthangi,
Pudukkottai District

9. The Block Educational Officer, Devakottai Block,
Sivagangai District

10. The Block Educational Officer,
Thirumayam Block,
Pudukkottai District

11. The Block Educational Officer,
O/o the Block Educational Office
Pudukkottai Pudukkottai District .

+1 CC to M/s.SPL.GP. (SR-20734[F] dated 22/04/2022)

+5 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-20746[F] dated
25/04/2022)

W.P. (MD) Nos.4062, 4068, 4073, 4098 &
4101 of 2021
and
W.M.P. (MD) Nos.3262, 3264, 3266, 3267,
3269, 3270, 3297, 3299, 3301, 3303 of
2021

21.04.2022

RD(06.05.2022) 5P 18C