



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.02.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.3644 of 2022

K.Chandrasekar

... Petitioner

Vs.

1.The Chief Educational Officer,
O/o.The Chief Educational Officer,
Madurai.

2.The District Educational Officer,
O/o.The Chief Educational Officer,
Usilampatti,
Madurai District.

3.The Block Educational Officer,
O/o.The Block Educational Officer,
Sedapatti,
Madurai District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to consider the petitioner for promotion to the post of B.T.Assistant (Science) in the available vacancy at Panchayat Union Middle School, Uthapuram II in Sedapatti Union within the time stipulated by this Court.

For Petitioner : Mr.S.Louis
For Respondent : Mr.N.GA.Natarajan
Government Advocate

O R D E R

Promotion *per se* cannot be claimed as a matter of choice. However, consideration for promotion is an fundamental right of an employee. Thus, consideration is one aspect of the matter and grant of promotion is other aspect of the matter. Whenever an administrative decision is taken to fill up the post, the Authorities Competent is bound to consider all the eligible employees who are all aspiring to secure promotion in accordance with Rules in-force. Thus, a panel is to be prepared in the order of seniority and by following the Rules. The vacancy is to be determined by the Authorities.

2. Mere availability of vacancy would not be a ground to seek promotion to a particular post. It is the prerogative of the Administrative Authorities to fill up the post, considering various aspects. Thus, the employee cannot seek a direction to fill up the



post, which is not within the ambit of service rights provided under the Rules.

3. However, if the decision is taken to fill up the post, promotions are to be granted in accordance with the Rules in-force and by following the seniority. In the present case, the petitioner states that he is fully qualified for promotion to the post of B.T.Assistant [Science]. Promotions are given to some employees to the said category.

4. The learned counsel for the petitioner made a submission that the vacancy in the post of B.T.Assistant is available and inspite of availability, the writ petitioner has not been promoted. However, the learned counsel for the petitioner fairly made a submission that none of the juniors to the petitioner in the list of Seniority has been promoted.

5. Therefore, the petitioner has not established a cause for the purpose of filing a writ petition. Mere availability of vacancy in the post of B.T. Assistant [Science] would not confer any right on the petitioner to file a writ petition seeking a direction to promote him and post in that vacancy. Such right is not contemplated in service conditions and only when the process of filling up the vacancies, the Authorities have to consider the claim of all eligible persons, who are waiting for promotion in the order of seniority. This being the principles to be followed, the directions sought for in the writ petition to consider the case of the petitioner for promotion cannot be granted, in view of the fact that he was considered and included in the panel, but was not promoted as no administrative decision was taken to fill up a particular post or category which the petitioner claims as vacant. The petitioner cannot seek a direction to fill up the post in a particular category. Such right is not conferred and such claim is beyond the scope of service conditions provided to an employee.

6. This being the principles, the petitioner has not established any right for the purpose of considering the relief as such sought for in the present Writ Petition.

7. Accordingly, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssb



To

1.The Chief Educational Officer,
O/o.The Chief Educational Officer,
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O/o.The Chief Educational Officer,
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3.The Block Educational Officer,
O/o.The Block Educational Officer,
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+1 CC to M/s.S.LOUIS, Advocate (SR-8664[F] dated 25/02/2022)

+1 CC to M/s.SPL GP (SR-8975[F] dated 28/02/2022)

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RK(10/03/2022) 3P 6C