



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.03.2022**

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P (MD)No.3564 of 2022

and

W.M.P (MD)No.3115 of 2022

M.Augustine

:Petitioner

.vs.

1.The Director of Elementary Education,
College Road, Chennai-6.

2.The Chief Educational Officer,
Tirunelveli, Tirunelveli District.

3.The District Educational Officer,
Cheranmahadevi, Tirunelveli District.

4.The Block Educational Officer,
Pappakudi Union, Tirunelveli District.: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents herein to promote the petitioner to the post of BT Assistant (Science) in the vacancies at Panchayat Union Middle School, Kumarasamipuram, Pappakudi Union, Tirunelveli District or any other schools in Pappakudi Union, Tirunelveli District as per the panel for promotion as on 01.01.2021 issued by the 4th respondent herein as per G.O.Ms.No.239 dated 22.09.2007 without any delay.

For Petitioner

:Mr.T.Pon Ramkumar

For Respondents

:Mr.G.V.Vairam Santhosh

Additional Government Pleader

O R D E R

The learned counsel appearing for the petitioner made a submission that the petitioner is under apprehension that without showing the vacancy in the allotment counseling, the respondents fill-up the post. Based on such apprehension, the relief of direction to direct the respondents to promote the petitioner to the post of B.T Assistant(Science) has been sought for.



2.The learned Additional Government Pleader appearing for the respondents made a submission that the writ petition is premature, as it is only based on certain apprehension.

3.As far as promotion is concerned, the same cannot be claimed as a matter of right. Consideration for promotion is a right of an employee. If at all an vacancy arises in the promotional post and administrative decision is taken by the competent authorities to fill-up the post, which is of appropriate actions are to be initiated in accordance with the rules and consider the names of all the eligible persons, who all are aspiring to secure promotion. Contrarily, an employee on arising of an vacancy cannot claim that he /she is to be promoted to the higher post.

4.The learned counsel for the petitioner made a submission that the Rule was amended as per G.O.No.239 dated 22.09.2002 and the said G.O is to be followed by the Competent Committee. It is needless to state that the rules in force is to be followed by the competent authorities, while undertaking the process of promotion for higher post.

5.Question arises whether an employee can claim promotion as a right. It is in negative. The employee has no right of promotion, unless decision is taken to fill-up the post and panel is prepared. Mere apprehension is insufficient to entertain the writ petition. The Hon'ble Supreme Court in the case of **Union of India and Another- vs- Manpreet Singh Poonam** reported in **CDJ 2022 SC 291**, also affirmed that the promotion *per se* cannot claim as a matter of right by the employees.

6.Therefore, it is made clear that if any decision is taken to fill-up the promotional post and while filling-up the post, the authorities competent are bound to follow the rules in force and by considering all the eligible persons, who all are waiting for such promotions in accordance with law.

7.With these clarification, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

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College Road, Chennai-6.

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+1 CC to M/s.T.PON RAMKUMAR, Advocate (SR-14818[F] dated 28/03/2022)

+1 CC to M/s.SPL GP (SR-14878[F] dated 28/03/2022)

ORDER MADE IN
W.P (MD) No.3564 of 2022
and
W.M.P (MD) No.3115 of 2022
25.03.2022

NA (CO)

GC (07.04.2022) 3P 7C