



W.P.(MD).No.12894 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 23.12.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.12894 of 2019

Jeyanthi

... Petitioner

Vs.

- 1.The Secretary to Government,
Department of School Education,
St.George Fort, Chennai.
- 2.The Director of School Education,
School Education Department,
DPI Compound, Chennai.
- 3.The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.
- 4.The District Educational Officer,
Sankarankovil District,
Tirunelveli.
- 5.The Additional Assistant Elementary Educational Officer,
Redesignated as Additional Block Educational Officer,
Vasudevanallur Educational District,
Tirunelveli District.



W.P.(MD).No.12894 of 2019

6.The Correspondent,
Thirugnana Sambanthar Middle School,
Puliyandgudi, Tirunelveli.

7.T.M.Kanaki

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pursuant to the impugned rejection order passed by the fifth respondent in A.Thi.Mu.No.296/m1/2018 dated 04.05.2018 quash the same and consequently direct the fifth respondent to approve the petitioner's promotion proposal dated 29.01.2018 and disburse all other service and monetary benefits.

For Petitioner : Mr.S.Chellapandian

For R-1 to R-5 : Mr.D.Sadiq Raja,
Additional Government Pleader.

For R-6 : No Appearance.

For R-7 : Mr.M.Saravana Kumar

ORDER

This Writ Petition is filed challenging the order dated 04.05.2018 with a consequential relief to direct the fifth respondent to approve the petitioner's promotion proposal dated 29.01.2018 and disburse all other service and monetary benefits.



W.P.(MD).No.12894 of 2019

WEB COPY 2. The petitioner has completed Higher Secondary Education in the year 1987. Thereafter, he has completed bachelor degree in English in the year 1992 and subsequently, he has completed B.Ed., degree course in the year 1996 and finally, Master Degree in English in the year 2007. The petitioner was appointed as Secondary Grade Teacher on 01.06.1995 in the sixth respondent's School. The contention of the petitioner is that the 7th respondent also was appointed as Secondary Grade Teacher in the said School. The husband of the seventh respondent namely, Thirugnana Sambantham was also working in the same School. The School belongs to father-in-law of the 7th respondent and the father-in-law along with his brother were running the School. There was a management dispute between the seventh respondent's father-in-law and his brother as well as the seventh's respondent husband and this litigation is pending before the Civil Courts.

3. In the meanwhile, the School was upgraded in the year 2002 as Middle School and hence the post of Headmaster became vacant. Since the seventh respondent's husband Thirugnana Sambantham was qualified, the School



W.P.(MD).No.12894 of 2019

decided to appoint him as a Headmaster. The petitioner as well the 7th respondent are also qualified to the said post, but the School obtained a relinquished letter from the petitioner as well as the 7th respondent. Both of them submitted letter of relinquishment. Even though the letter states it is permanent, the contention of the petitioner is that the letter was obtained forcefully and the petitioner was compelled to submit such letter in order to accommodate the said Thirugnana Sambantham. Therefore, the letters submitted by the petitioner as well as the seventh respondent which was obtained forcefully by indicating permanent relinquishment cannot be entertained. The permanent relinquishment is not recognized under the Act. Therefore, the respondents cannot entertain the permanent relinquishment both for the petitioner as well as the seventh respondent.

4. In the meanwhile, the said Thirugnana Sambantham who was holding the post died on 13.09.2014 and again the post became vacant. The petitioner and the seventh respondent are contenders for the said post. The contention of the seventh respondent is that she is senior than the petitioner by taking into account her date of appointment. Admittedly, the seventh respondent was



W.P.(MD).No.12894 of 2019

appointed in the year 1989 and the petitioner was appointed in the year 1995.

Since the 7th respondent is senior, the same will not confer any promotion to the 7th respondent. Any promotion is governed by Rule 15(4) and the promotion should be granted based on merit and ability, seniority can be considered when merit and ability are equal. Therefore, the petitioner and the seventh respondent shall be considered based on the Rule 15(4) of the Tamil Nadu Private Schools Regulations Act. However, the committee has power to assess and consider the case of the petitioner and the 7th respondent in order to come to the conclusion who is have merit and ability. Therefore, the case ought to be remitted back to the school committee.

5. At this juncture, it is stated that the school is under direct payment. Hence the case is remitted back to the third respondent, Chief Educational Officer (CEO). The CEO is directed to conduct an enquiry after issuing notice to the petitioner as well as the seventh respondent. After going into the evidence and the facts, service registers etc., the CEO shall come to the conclusion, who is having merit and ability as per the rules, thereafter pass orders. Since the School is under direct payment, the Chief Educational Officer



W.P.(MD).No.12894 of 2019

is directed to confer the promotion either to the petitioner or to the seventh respondent. The Chief Educational Officer cannot decline the promotional aspects either to the petitioner or to the seventh respondent, by citing the reason that the School is under direct payment. Therefore, the impugned order is quashed. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

6. Based on restructuring the Department, the present Chief Educational Officer is Chief Educational Officer, Thenkasi and the order copy shall be forwarded to CEO, Thenkasi in order to comply with the directions stated supra.

7. In view of the above, this Writ Petition is allowed in above terms.
There shall be no order as to costs.

23.12.2022

Index : Yes / No
Internet : Yes/ No
Nsr



W.P.(MD).No.12894 of 2019

To

WEB COPY

1. The Secretary to Government,
Department of School Education,
St. George Fort, Chennai.
2. The Director of School Education,
School Education Department,
DPI Compound, Chennai.
3. The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.
4. The District Educational Officer,
Sankarankovil District,
Tirunelveli.
5. The Additional Assistant Elementary Educational Officer,
Redesignated as Additional Block Educational Officer,
Vasudevanallur Educational District,
Tirunelveli District.

Copy to:

The Chief Educational Officer,
Thenkasi.



WEB COPY



W.P.(MD).No.12894 of 2019

S.SRIMATHY, J.

Nsr

W.P.(MD).No.12894 of 2019

23.12.2022