



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.15599 of 2014

and

M.P(MD)Nos.2 and 3 of 2014

P.Vimala

... Petitioner

Vs.

1.The Director of Elementary Education,
College Road,
Chennai-600 006.

2.The District Elementary Educational Officer,
Thanjavur, Thanjavur District.

3.The Assistant Elementary Educational Officer,
Peravurani, Thanjavur District.

4.S.Jeevitha

... 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 relating to the impugned proceedings issued by the second respondent DEEO in Na.Ka.No.1525/A5/2014, dated, 13.08.2014 and the consequential proceedings issued by the third respondent AEEO in Na.Ka.No.1088/A1/2014, dated, 18.08.2014, quash the same and further direct the respondents 2 and 3 to give promotion to the petitioner as BT Assistant(Maths) forthwith on the basis of her position in the promotion panel, dated, 31.05.2014 with all attendant benefits.

For Petitioner : Mr.P.Muthuvel
for M/s.Isaac Mohanlal

For Respondents : Mr.V.Om Prakash
Government Advocate(Civil Side)
for R1 to R3
M/s.D.Geetha
for R4



ORDER

This writ petition has been filed for Certiorari to quash the impugned order, dated, 13.08.2014 and the consequential proceedings, dated, 18.08.2014 and to direct the respondents to give promotion to the petitioner as B.T Assistant(Maths) on the basis of promotional panel, dated, 31.05.2014 with all attendant benefits.

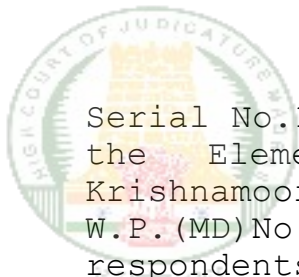
2. The brief facts of the case is that the petitioner is working as Headmistress in the Panchayat Union Primary School. She possess the qualification of Diploma in Teacher Education(D.T.Ed), B.Sc(Maths) and B.Ed(Maths). Initially, the petitioner was appointed as Secondary Grade Teacher on 12.12.1990 and transferred to some other schools periodically. Thereafter, the petitioner was promoted as Headmistress in Panchayat Union Primary School on 13.10.2005. In the Headmistress post also, the petitioner was transferred to various schools. The petitioner has completed B.Ed. (Maths) in the year 2013 and thereafter, she became eligible for promotion to the post of B.T Assistant (Maths). The feeder categories for promotion to the post of B.T. Assistant (Maths) are Secondary Grade Teachers, Special Teachers, Physical Education Teachers and Primary School Headmasters with the qualification of B.Sc. (Maths) and B.Ed. (Maths). The third respondent-Assistant Elementary Educational Officer (A.E.E.O.,) prepared the panel in the year 2014 and the second respondent-District Elementary Educational Officer (D.E.E.O.,) approved the same and released it on 31.05.2014. The petitioner's name was in Serial No.1 and the fourth respondent's name was placed at the Serial No.6. The post of B.T Assistant (Maths) fell vacant in the Panchayat Union Middle School, Poovallur West at Peravurani Panchayat Union with effect from 06.07.2014 on account of the transfer of the then incumbent Mrs. Krishnalatha to the Government Higher Secondary School, Aralvaimozhi. Since the petitioner is in the Serial No.1, the petitioner ought to have been granted promotion. But the second respondent vide, order, dated, 13.08.2014 granted promotion to the fourth respondent and the fourth respondent got relieved from her present post on 18.08.2014 and joined the promotional post on the same day.

3. Aggrieved over the same, the petitioner preferred a complaint and requested to revoke the promotion and to give promotion to the petitioner. The contention of the petitioner is that the respondents 2 and 3 had taken steps (then) to accommodate the fourth respondent against another more convenient post of B.T Assistant(Maths) in Panchayat Union School, Palathialli at Peravurani Union in Thanjavur District (in the place of an existing incumbent one K.Krishnamoorthy). It was reliably understood by the petitioner that D.E.E.O., and the A.E.E.O., have done the above deed purportedly in pursuance of an order passed by this Court in W.P. (MD) No.690 of 2012, dated, 24.03.2014. It appears that the fourth respondent, Jeevitha had filed a writ petition, challenging the promotion of the said Krishnamoorthy in B.T Assistant on 16.09.2011

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5. After a reading of this counter affidavit, this Court directed the officials to be present in person to explain the counter affidavit, which is inconsistent with the list of panel, wherein the petitioner is shown in Serial No.1, whereas, the fourth respondent was shown in Serial No.6. The official respondents have come out with additional counter affidavit stating that the fourth respondent was given promotion as B.T Assistant to comply with the direction of this Court in Cont.P.(MD)No.747 of 2014 in W.P(MD) No.690 of 2012. The issue in W.P. (MD) No.690 of 2012 was that the B.Sc. (Maths) undergoing three years course is eligible for promotion and one year course in B.Sc. Maths is not eligible for promotion. It is seen that the said Krishnamoorthy had completed one year decree course and his promotion was challenged by the said Jeevitha, which was allowed in favour of the fourth respondent. In order to comply with the order of this Court, the fourth respondent was promoted as B.T. Assistant (Maths) on 18.08.2014.

<https://hcservices.accounts.gov.in/hcservices/>



Serial No.1 in the year 2011. The promotion counselling conducted by the Elementary Education Department and posted the said Krishnamoorthy as B.T. Assistant (Maths), which was challenged in W.P.(MD)No.690 of 2012 and he was promoted. Therefore, the respondents claimed to accept this affidavit.

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7. The fourth respondent also filed a counter affidavit.

8. Heard Mr.P.Muthuvel, learned counsel appearing for the petitioner, Mr.V.Om Prakash, learned Government Advocate(Civil Side) for respondents 1 to 3 and M/s.D.Geetha, learned counsel appearing for fourth respondent and perused the records.

9. The fourth respondent Jeevitha admittedly has completed B.Ed., Course in the year 2010 and she was an aspirant for the promotion in the year 2011 panel. However, the respondents have granted promotion to one Krishnamoorthy. Aggrieved over the same, the said Jeevitha has challenged the promotion in W.P.(MD)No.690 of 2012. On perusal of the qualifications of the said Krishnamoorthy and Jeevitha, it was found that the said Krishnamoorthy has completed one year degree and hence, he was not eligible for the promotion. Therefore, this Court directed the respondents to set aside the promotion granted to the said Krishnamoorthy and grant promotion to the said Jeevitha. The respondents did not comply with the order. Hence, the said Jeevitha preferred a Contempt Petition. In order to avoid Contempt, the respondents promoted the said Jeevitha in the vacant position, which arose in 2014. But the respondents **have not reverted the said Krishnamoorthy till now.** Therefore, the petitioner could not be accommodated. The respondents have stated before the Contempt Court that the order was complied and based on the same the contempt was closed. But actually the order was only partially complied since until the Krishnamoorthy is reverted to his original position, the order is not fully complied. The respondents without reverting the said Krishnamoorthy and retaining him in the promoted post is absolutely an illegal act since the said Krishnamoorthy has completed only one year degree course. However, the one year degree course is not eligible for appointment / promotion, contested before this Court and finally it was held that they are not eligible for appointment / promotion during 2012. Therefore, this Court is of the considered opinion that the promotion granted to Krishnamoorthy was declared as illegal and he shall be reverted, however, the monetary benefits granted shall not be recovered from him.

10. Therefore, this Court is of the considered opinion, a comprehensive direction is necessary to set right the illegality committed by the official respondents. Hence, the following orders are passed:

a. The official respondents are directed to pass the reversion order of the said Krishnamoorthy.



b. The respondents are directed to accommodate the said Jeevitha in the post, in which the said Krishnamoorthy is occupying

c. The respondents are directed to grant promotion to the petitioner in the post, in which the said Jeevitha is occupying.

d. The petitioner is entitled to the monetary benefits in the promoted post from the date of this order passed in this writ petition.

e. The respondents are directed not to recover any amount from the said Krishnamoorthy.

f. The Krishnamoorthy is not entitled to monetary benefits from the date of this order passed in this writ petition

g. The aforesaid directions shall be completed within a period of four weeks from the date of receipt of the copy of this order.

11. With these directions, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AS)

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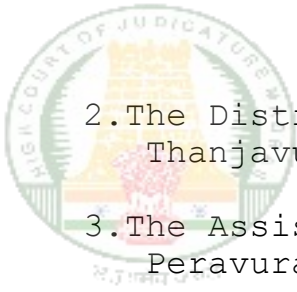
Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Director of Elementary Education,
College Road,
Chennai-600 006.



2.The District Elementary Educational Officer,
Thanjavur, Thanjavur District.

3.The Assistant Elementary Educational Officer,
Peravurani, Thanjavur District.

+1 CC to M/s.D.GEETHA, Advocate (SR-15009[F] dated 29/03/2022)

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-15215[F] dated
29/03/2022)

W.P. (MD) .No.15599 of 2014

28.03.2022

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