



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 19.10.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.21865 of 2022 and
W.M.P.(MD)No.16030 of 2022

C.Muthukumar,
Head Master,
Panchayat Union Middle Street,
Pathinalamperi, Manur Union,
Thirunelveli District – 627 359.

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
Secretariat, Chennai – 600 009.
2. The Director of Elementary Education,
O/o.Director of Elementary School,
College Road, Chennai – 600 006.
3. The District Educational Officer,
O/o.The District Educational Office,
Tirunelveli – 1, Tirunelveli District.
4. The Block Educational Officer,
O/o.Block Educational Officer,
Manoor (E) Rastha,
Tirunelveli District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to consider the petitioner for notional



promotion to the post of Block Educational Officer by including the name of the petitioner in the panel for the year 2018-2019 having regard to the fact that the petitioner was exonerated from the disciplinary proceedings vide proceedings of the third respondent in Na.Ka. No.2266/AA2/2022 dated Nil.04.2022 and strictly in conformity with Section 7(1) r/w. Clause II (19) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016.

For Petitioner : Mr.H.Mohammed Imran,
for M/s.Ajmal Associates.

For Respondents: Mr.N.Sathees Kumar
Additional Government Pleader.

* * *

ORDER

Heard the learned counsel on either side.

2. The writ petitioner had worked as Headmaster in a Panchayat Union Middle School. He was initially appointed as Elementary School Teacher in the year 1998. He became the Primary School Headmaster on 03.06.2000. He became the Middle School Headmaster on 03.06.2010. The petitioner was issued with charge memo on 13.01.2017. No doubt, the



charges framed against the writ petitioner were grave. An enquiry was conducted. The disciplinary authority imposed the punishment of stoppage of increment for a period of two years with cumulative effect. Questioning the same, he filed an appeal before the appellate authority. The appellate authority confirmed the punishment imposed on the petitioner. Challenging the same, the petitioner filed W.P.(MD)No.2075 of 2018. Vide order dated 01.03.2021, the matter was remanded to the file of the disciplinary authority. Following remand, the matter was once again enquired and the petitioner was exonerated from the charges. A copy of the order dated 09.05.2022 exonerating the writ petitioner from all the charges has been enclosed in the typed set of papers. There is no dispute that this order has become final.

3. The only question that arises for consideration is whether the petitioner has to be given promotion which was obviously withheld in view of the pendency of the disciplinary proceedings. The relevant legal provision is Clause 19 of paragraph No.II in Part A of Schedule XI of Section 7(1) Tamil Nadu Government Servants (Conditions of Service) Act 2016.



It reads as follows:-

WEB COPY

“ (19) The case of a member of service whose promotion or appointment has been deferred on account of any pending charges, shall be reopened after disposal of the charges and appropriate orders shall be passed on merits, either giving him promotion or appointment if he is exonerated or acquitted of the charges and if there is no other adverse factor to be reckoned or denying him promotion or appointment or giving promotion or appointment from a later date, depending upon the nature of punishment and other factors to be reckoned in other cases. In all such cases, the appointing authority shall take *suo moto* action within fifteen days from the date of issue of final orders in the departmental disciplinary case or criminal case. ”

4. The respondents have filed counter affidavit. The learned Additional Government Pleader submitted that the



gravity of the offence will have to be borne in mind while considering the relief now sought for.

5. I am not able to accept the said contention. If the delinquent employee has been exonerated of the charges framed against him, he ought to be given promotion. Of course if there is any other impediment, then he cannot be granted promotion. The expressions “ other adverse factor” and “ other cases” obviously do not refer to the disciplinary charges of which the petitioner was exonerated. Since there is no other impediment or adverse factor, the respondents are directed to consider the petitioner for notional promotion to the post of Block Educational Officer by including him in the appropriate panel. Such an order shall be passed by the third respondent within a period of eight weeks from the date of receipt of a copy of this order. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

19.10.2022

Index : Yes / No
Internet : Yes/ No

PMU



WEB COPY



6

W.P.(MD)NO.21865 OF 2022

G.R.SWAMINATHAN,J.

PMU

To:

1. The Secretary to Government,
School Education Department,
Secretariat, Chennai – 600 009.
2. The Director of Elementary Education,
O/o.Director of Elementary School,
College Road, Chennai – 600 006.
3. The District Educational Officer,
O/o.The District Educational Office,
Tirunelveli – 1, Tirunelveli District.
4. The Block Educational Officer,
O/o.Block Educational Officer,
Manoor (E) Rastha,
Tirunelveli District.

W.P.(MD)No.21865 of 2022

19.10.2022



WEB COPY



7

W.P.(MD)NO.21865 OF 2022