



WEB COPY

W.P.(MD)No.20039 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.20039 of 2015

and

M.P. (MD)No.1 & 2 of 2015

and

W.M.P. (MD)No.16726 of 2017

P.Subramanian

... Petitioner

vs

- 1.The Government of Tamilnadu
represented by its Principal Secretary,
Department of School Education,
Fort St. George, Secretariat,
Chennai - 600 009.
- 2.The Director of Elementary Education,
D.P.I. Campus, College Road,
Nungambakkam, Chennai - 600 006.
- 3.The District Elementary Educational Officer,
Tirunelveli - 627 001.
- 4.The Assistant Elementary Educational Officer,
Tirunelveli Urban,
Tirunelveli - 627 001.
- 5.K.Kamala

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned orders passed by the third respondent in Na.Ka.No.2208/A3/2013, dated 28.04.2014 and Na.ka.No.2208/A3/2013, dated 28.05.2013, quash the same and direct the respondents 1 to 4 to promote the petitioner as Middle School Headmaster with effect from 28.05.2013, the date on which the fifth respondent was promoted as Middle School Headmaster with all attendant monetary benefits.

For Petitioner : Mr.M.Saravanan, Advocate
For Respondents : M/s.D.Farjana Ghoushia for R1 to R4
Special Government Pleader
Mr.J.Pon Ramkumar for R5

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned orders passed by the third respondent, dated 28.04.2014 and Na.ka.No.2208/A3/2013, dated 28.05.2013 and direct the respondents 1 to 4 to promote the



petitioner as Middle School Headmaster with effect from 28.05.2013, the date on which the fifth respondent was promoted as Middle School Headmaster with all attendant monetary benefits.

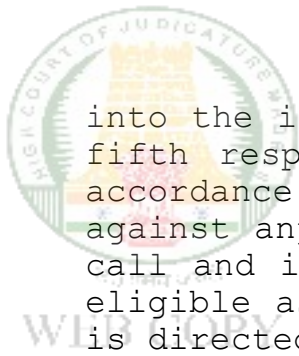
2.The petitioner was qualified as B.T Assistant on 19.09.2005 and was brought under time scale of pay on 01.06.2006. The petitioner waited under the seniority list to be promoted as Middle School Headmaster but he was not promoted. Aggrieved over the same, the petitioner submitted a representation to the respondents. Since it was not considered, the petitioner filed a writ petition seeking to consider the case and grant promotion. This Court directed the respondents to consider and pass orders. The respondents have considered and stated since there is no vacancy and the petitioner's case will be considered when the vacancy arises. The petitioner's grievance is that, the fifth respondent was promoted vide order, dated 28.05.2013 during the counseling for the year 2013-2014. Therefore, the petitioner has come up with this present writ petition challenging the promotion of the fifth respondent.

3.The third respondent has filed a counter affidavit stating that the petitioner was in the seniority list as S.No.1. However, his candidature was not considered, since there was an interim stay in W.A.(MD)No.529 of 2013, dated 29.04.2013, where all the B.T Assistant Teachers were not granted promotion to the post of Middle School Headmaster.

4.The fifth respondent has filed a counter affidavit stating though the petitioner may be the senior most person in the B.T Assistant seniority, but in the combined seniority list for the post of Middle School Headmaster, the fifth respondent was in S.No.1 and the petitioner name was found in the S.No.3. The petitioner has not challenged the said seniority list at any point of time. Suddenly the petitioner cannot wakeup and state that the petitioner was not promoted as Middle School Headmaster without challenging the seniority list for the year 2009, 2011, 2012 and 2013.

5.In reply to the contention of the fifth respondent, the petitioner submitted that this seniority list cannot be relied on, since the petitioner's appointment date was not furnished in the seniority list. The fifth respondent submitted that the details are furnished under Right to Information and the same cannot be stated as incorrect. The petitioner also submitted that B.T. Assistants were granted promotion and has furnished details obtained under Right to Information. On perusing the information it is seen some four B.T. Assistants were granted in Nagercoil Kanyakumari District, six persons in Coimbatore District. Since both the petitioner and the fifth respondent are making submissions based on the factual matrix, this Court is not inclined to entertain the factual matrix.

6.Therefore, this Court is remitting back the entire issue to the respondents and the fifth respondent, the Director of Elementary Education, to look



into the issue of seniority as well as the promotion granted to the fifth respondent. If the promotion to the fifth respondent is in accordance to law, then the same shall be continued, but if it is against any rule, the Director of Elementary Education shall take a call and if need be set aside the promotion. If the petitioner is eligible as per the rule, then the Director of Elementary Education is directed to grant promotion as per law.

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

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 Principal Secretary,
Government of Tamilnadu,
Department of School Education,
Fort St. George, Secretariat,
Chennai - 600 009.
2. The Director of Elementary Education,
D.P.I. Capus, College Road,
Nungambakkam, Chennai - 600 006.
3. The District Elementary Educational Officer,
Tirunelveli - 627 001.
4. The Assistant Elementary Educational Officer,
Tirunelveli Urban, Tirunelveli - 627 001.

+1 CC to M/s. T. PON RAMKUMAR, Advocate (SR-3535[F] dated 02/02/2022)
+1 CC to M/s. R. SUBRAMANIAN, Advocate (SR-3634[F] dated 02/02/2022)
+1 CC to M/s. SPL. GP (SR-3647[F] dated 02/02/2022)

W.P. (MD) No. 20039 of 2015
01.02.2022

RS (18.02.2022) 3P-8C

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