



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.02.2022**

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P(MD)NO.23821 of 2019

and

W.M.P(MD)Nos.20438,20440 and 20442 of 2019

P.Sivasakthi Ganesh Kumar

:Petitioner

.vs.

1.The State of Tamil Nadu,
represented by its Principal Secretary,
Department of School Education,
Fort St.George,
Chennai-9.

2.The Chairman,
Teachers Recruitment Board,
Chennai-6.

3.The Director of School Education,
Office of the School Education,
DPI Campus,
Chennai-6.

4.The Chief Educational Officer,
Tuticorin,
Turicorin District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the third respondent herein in his proceedings in Na.Ka.No.43014/W1/E1/2019, dated 29.10.2019 and to quash the same as illegal and further to direct the respondents 2 and 3 to give priority under Right of Persons Disability Act and to realLOT the Petitioner's seniority rank as per his appointment date in the State Wide Promotion Panel, 2019 to the Post of Headmaster in various Government Higher Secondary Schools, Tamil Nadu, within the time stipulated by this Court.

For Petitioner

:Mr.D.Nallathambi

For Respondents

:Mr.N.GA.Nataraj Govt.Advocate



O R D E R

The order of rejection rejecting the claim of the writ petitioner to re-allot his seniority by placing his name in Serial No.11, as per the selection list published by the Teachers Recruitment Board in the year 2002, is under challenge in the present writ petition.

2.The petitioner was appointed as P.G Assistant, during the selection process for appointment to the post of P.G Assistant (Botany). The petitioner was allotted with Serial No.13 in the year 2002 batch and his seniority rank in the said batch is No.11. Relying on the said list of the year 2002 issued by the Teachers Recruitment Board, the petitioner made an application to re-allot his seniority from Serial No.54, in which, his name is affixed by the competent authority.

3.The learned counsel for the petitioner reiterated that the Teachers Recruitment Board issued the seniority list of the year 2002 as lead for the purpose fixation of seniority. Admittedly, the name of the petitioner was placed in Serial No.11 in the selection list published by the Teachers Recruitment Board. Thus, the same seniority has to be followed for all purpose including for promotion. The learned counsel for the petitioner submitted that the name of the petitioner is placed in Serial No.54 in the year 2002 and at present 429 in the State Wide seniority list.

4.This Court is of the considered opinion that fixation of seniority is to be done in accordance with the Section 40 of Tamil Nadu Government Servants (Conditions of Service) Act, 2016. Sub Section(1) enumerates that "The seniority of a person in a service, class, category or grade shall, unless he has been reduced to a lower rank as a punishment, be determined in the order of his placement in the list prepared by the recruitment agency or appointing authority, as the case may be, in accordance with the rule of reservation and the order of rotation specified in Schedule-V, where it applies. The date of commencement of his probation shall be the date on which he joins duty irrespective of his seniority."

5.In the present case, the petitioner is placed in Serial No.54 with reference to the year 2002-2003 by adopting communal rotation. The authorities have clearly stated that the seniority list is prepared and published following the Section 40(1) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. It is further made clear that the juniors to the petitioner in the list of the year 2002 was not placed above the writ petitioner. When the list of the year 2002 is being adopted for the purpose of placing the persons in accordance with their ranking list, the petitioner cannot seek any further re-allotment of seniority and in the event of



considering the case in such a manner the same will be resulted in violation of Section 40(1) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016.

6. Therefore, the respondents have not violated the Act in the seniority with reference to Section 40 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and the name of the petitioner is properly placed and the petitioner has not established that any of his junior who, was selected along with the petitioner in the year 2002, was placed above the petitioner. If that being the factum, there is no infirmity in respect of the impugned order and reasoning is also inconsonance with the provisions of the Act. Accordingly, this writ petition is dismissed. No consts. Consequently, connected Miscellaneous Petitions are dismissed.

Sd/-

Assistant Registrar (AD1)

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/ /2022

Sub Assistant Registrar(CS)

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To

1. The Principal Secretary,
Department of School Education,
Fort St. George,
Chennai-9.

2. The Chairman,
Teachers Recruitment Board,
Chennai-6.

3. The Director of School Education,
Office of the School Education,
DPI Campus,
Chennai-6.



4.The Chief Educational Officer,
Tuticorin,
Tuticorin District.

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-8808[F] dated 25/02/2022)

ORDER MADE IN
W.P (MD) NO.23821 of 2019
and
W.M.P (MD) Nos.20438,
20440 and 20442 of 2019
23.02.2022

PP(12.03.2022) 4P 6C