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W.P.Nos.12936, 24632, 30676 & 32286 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.07.2023

PRONOUNCED ON : 21.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.12936, 24632, 30676 & 32286 of 2013
and M.P.Nos.1,1,2 & 2 of 2013

R.Amudavalli

...Petitioner in
all W.Ps.

-Vs-

1. The District Elementary Educational Officer,
Villupuram, Villupuram District.

2. The Additional Assistant Elementary
Educational Officer,
Gingee, Villupuram District.

3. J.Sivasakthi
Secondary Grade Teacher,
Panchayat Union Middle School,
So.Kuppam, Gingee Block,
Villupuram District.

... Respondents in
W.P.Nos.12936 & 32286/2013

1. The District Elementary Educational Officer,
Villupuram, Villupuram District.

2. The Additional Assistant Elementary
Educational Officer,
Gingee, Villupuram District.



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3. The Additional Assistant Elementary
Educational Officer,
Rishivandiyam, Villupuram District.

4. N.Sudha.
B.T. Assistant (Mathematics)
Panchayat Union Middle School,
Marur, Rishivandiyam Panchayat Union,
Villupuram District.

... Respondents in
W.P.24362/2013

1. The District Elementary Educational Officer,
Villupuram, Villupuram District.

2. The Additional Assistant Elementary
Educational Officer,
Gingee, Villupuram District.

3. The Additional Assistant Elementary
Educational Officer,
Rishivandiyam, Villupuram District.

4. N.T.Dhanalakshmi
B.T. Assistant (Mathematics)
Panchayat Union Middle School,
Ethanemili, Vallam Panchayat Union,
Villupuram District.

5. J.Sivasakthi
Secondary Grade Teacher,
Panchayat Union Middle School,
So.Kuppam, Gingee Block,
Villupuram District – 604 153.
(R5 impleaded as per order of
this Court dated 21.11.2016
made in W.P.No.1 of 2015 in
W.P.No.30676 of 2013)

6. A.Anthony



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Secondary Grade Teacher,
Panchayat Union Middle School,
Mallarasankuppam,
Gingee Taluk,
Villupuram District.
(R6 impleaded as per order of
this Court dated 17.03.2020
made in W.M.P.No.7361 of 2020
in W.P.No.30676 of 2013)

... Respondents in
W.P.30676/2013

Prayer in W.P.No.12936 of 2013: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Panel issued by the second respondent in his proceedings No.Nil, dated Nil, drawn as on 01.01.2013 and quash the same, insofar as the place of the third respondent is concerned and direct the respondents 1 and 2 to consider the petitioner for promotion to the post of B.T.Assistant.

Prayer in W.P.No.24362 of 2013: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the third respondent in his proceedings Na.Ka.No.245/A/1/2013 dated 01.07.2013 and quash the same and direct the respondents to promote the petitioner as B.T. Assistant (Mathematic) in any one of the Panchayat Union Middle Schools at Gingee Union, Villupuram District, on the basis of the Panel drawn for the year 2013-2014 and confer all the consequential benefits to the petitioner.



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Prayer in W.P.No.30676 of 2013: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the third respondent in his proceedings Na.Ka.No.4155/A3/2012 dated 02.09.2013 and quash the same and direct the respondents to promote the petitioner as B.T. Assistant (Mathematic) in any one of the Panchayat Union Middle Schools at Gingee Union, Villupuram District, on the basis of the Panel drawn for the year 2013-2014 and confer all the consequential benefits to the petitioner.

Prayer in W.P.No.32286 of 2013: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the second respondent in his proceedings Na.Ka.No.1429/A2/2013 dated 15.10.2013 and quash the same, and direct the respondents to revise the seniority of the petitioner in the cadre of Secondary Grade Teacher placing the petitioner below the approved probationer for the year 2009 and above the third respondent and consequently direct the respondents to promote the petitioner as B.T. Assistant and confer all the consequential benefits.

For Petitioners
in all W.Ps. : Mr.V.Sivalingam

For Respondents in W.P.Nos.12936 & 32286 of 2013

For R1 & R2 : Ms.Akila Rajendran
Government Advocate

For Respondents in W.P.No.24362 of 2013

For R1 to R3 : Ms.Akila Rajendran



W.P.Nos.12936, 24632, 30676 & 32286 of 2013

Government Advocate

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For Respondents in W.P.No.30676 of 2013

For R1 to R3 : Ms.Akila Rajendran
Government Advocate
For R5 : Mr.S.Nedunchezhiyan
For R6 : Ms.Suneetha

COMMON ORDER

All the Writ Petitions are filed by the same petitioner. The writ petition in W.P.No.12936 of 2013 has been filed challenging the seniority panel issued by the second respondent. The Writ Petition in W.P.No.24632 of 2013 has been filed challenging the order of the fourth respondent's transfer from Rishivandiyam union to Gingee union of Villupuram District. W.P.No.30676 of 2013 has been filed challenging the 4th respondent's transfer order who was transferred from Vallam union to Gingee union of Villupuram District. Subsequently, the respondents 5 & 6 are impleaded themselves as parties. W.P.No.32286 of 2013 has been filed challenging the order passed by the second respondent dated 15.10.2013 thereby rejecting the request to re-fix the seniority of the petitioner in the second grade teacher placing the petitioner below the approved probationer for the year 2009.



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2. The petitioner was selected and appointed by the Teachers Recruitment Board as Second Grade Teacher on 28.07.1995 and posted in Panchayat Union Elementary School in Acharapakkam Union, Kancheepuram District. While she was in probation period, due to her family circumstances, she sought for transfer to Chennai Corporation. Therefore, she was transferred to Chennai Corporation without any break in service on 01.08.1996. Thereafter her probation was declared by the proceedings dated 07.02.2007 with effect from 01.08.1998.

3. Since the petitioner got married and her husband was also working as B.T. Assistant in Gingee Union, she requested for transfer and on mutual transfer the petitioner got transfer to Panchayat Union Middle School, Othiyathoor, in the Gingee. At that time, the third respondent in W.P.No.12936 of 2023 viz., J.Sivasakthi was working as Secondary Grade Teacher on consolidate pay from 24.10.2004 and she was brought into regular time scale with effect from 01.06.2006. Thereafter, her probation was declared with effect from 16.09.2008.

4. Further, the petitioner had acquired B.Sc., Maths degree in



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the year 2005 and B.Ed., in 2010. She was placed above the third respondent in W.P.No.12936 of 2023 in the seniority list. However, she could not get any promotion for want of vacancy. In the year 2013, as per the seniority list as on 01.01.2013, the petitioner was placed in the 149th rank and the third respondent in W.P.No.12936 of 2023 was placed in 126th rank. Therefore, she made representation to the second respondent to re-fix her seniority.

5. In the mean time, the fourth respondent in W.P.No.24362 of 2013 viz., N.Sudha was transferred from Rishvandhiyam Panchayat Union to Gingee Panchayat Union for the post of B.T. Assistant, Maths. Therefore, no vacancy arose in the post of B.T. Assistant, Maths. Hence, the petitioner challenged the said transfer order of the fourth respondent in W.P.No.24362 of 2013. In the said Writ Petition, this Court restrained the respondents from filling up the post by brining teachers from other Panchayat Union, by an order dated 30.08.2013.

6. However, the fourth respondent in W.P.No.30676 of 2013 viz., T.Dhanalakshmi was also transferred from Vallam Union to Gingee Union in the post of B.T.Assistant (Maths). Therefore, it was also



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challenged in W.P.No.30676 of 2013 and subsequently the respondents 5 & 6 were impleaded by themselves. While pending all the above three Writ Petitions, the request made by the petitioner dated 27.03.2013 to re-fix her seniority was rejected by the second respondent by his proceeding dated 15.10.2013 and the same was also challenged by the petitioner in W.P.No.32286 of 2013.

7. Heard the learned counsel appearing on either side and perused the material available on records.

8. On perusal of the counter filed by the first respondent in W.P.No.12936 of 2013, revealed that the third respondent viz., J.Sivasakthi was appointed on contract basis with consolidate pay on 21.10.2004 in Gingee Union and she was brought into regular time scale of pay and her service was regularised with effect from 01.06.2006. She completed her probation period on 16.09.2008. At the time of transfer of the petitioner to Gingee Union, the third respondent was regularised with effect from 01.06.2006. Therefore, the petitioner's name was placed below the third respondent.



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9. After the period of four years from the date of publication of seniority list for the year 2009, the petitioner preferred an appeal on 27.03.2013, before the second respondent for re-fix her seniority place above the third respondent. Therefore, her appeal was rightly rejected as devoid of merits by the second respondent on the ground that she preferred the appeal after the period of four years from the date of publication of seniority list. Further, the Sub-rule (f) of Rule 35 of the Tamil Nadu State and Subordinate Service Rules, is very clear that the appeal should be made within a period of three years from the date of fixing the seniority. Any application received after the said period shall summarily rejected. Inclusion of her name in the panel of eligible persons for promotion to the post of B.T.Assistant (Maths) for the year 2013 is not feasible, since she had entered her passing of B.Ed., degree in her service register only on 17.05.2013.

10. That apart, the petitioner did not seek permission from the competent authority to pursue her B.Sc. Maths degree. Further, she had failed to make any request to record her degree in her service register. Those entries were made in the service register after the crucial date of panel for the year 2013 viz., 01.01.2013 and as such she was not



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included in the panel for the eligible persons for the promotion to the post of B.T. Assistant.

11. As per the instruction of the Director of Elementary Education, Chennai, dated 30.08.1995, the crucial date on which the candidates should be qualified first of January of every year. Those who failed to enter their qualification in the service register as on 1st January of every year, they shall be considered to include in the panel of the subsequent year. Therefore, the seniority panel dated 01.01.2013 was rightly issued by the second respondent.

12. It is also seen that there were three vacancies of B.T. Assistant Maths available during the year 2013 in the union of Gingee. Out of the three vacancies, two vacancies were filled up from other unions of Vallam and Rishvandhiysam viz., the fourth respondent in W.P.Nos.24362 & 30676 of 2013 – N.Sudha and T.Dhanalakshi respectively, on administrative ground. The remaining one post was unfilled in view of the interim order dated 14.11.2013 passed by this Court in M.P.No.2 of 2013 in W.P.No.30676 of 2013.



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13. Therefore, the petitioner cannot question the transfer of the fourth respondent in W.P.Nos.24362 & 30676 of 2013, since the name of the petitioner was not included in the panel of eligible persons for the promotion to the post of B.T. Assistant (Maths) for the year 2013. Subsequently, the request of the petitioner to re-fix her seniority place above the other respondents was also rejected by the second respondent.

14. The seniority of the petitioner has been fixed based on the orders passed in G.O.Ms.No.142 School Education Department dated 19.06.2009. According to the G.O., the seniority has to be fixed based on the date of joining in the unit of establishment. The petitioner had joined in the union of Gingee on 16.07.2008. Whereas the third respondent in W.P.No.12936 of 2013 viz., J.Sivasakthi had joined in the union of Gingee as early as on 01.06.2006. As per instruction issued by the Director of Elementary Education, Chennai, by its proceeding dated 15.11.2001, if the seniority once fixed, it cannot be revised consequent on the completion of probation. Therefore, the petitioner's name was included in the panel of eligible persons for promotion to the post of B.T. Assistant (Math) for the year 2013, based on the orders passed by the Government and on instructions of the Director of Elementary Education,



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Chennai. Hence, the request made by the petitioner was rightly rejected by the second respondent.

15. In view of the above discussions, this Court feels that all the Writ Petitions lack of merits, failed and liable to be dismissed. Accordingly, all the Writ Petitions are dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

21.07.2023

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
rts



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To
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1. The District Elementary Educational Officer,
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2. The Additional Assistant Elementary
Educational Officer,
Gingee, Villupuram District.
3. The Additional Assistant Elementary
Educational Officer,
Rishivandiyam, Villupuram District.



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G.K.ILANTHIRAIYAN. J.

rts

ORDER IN
W.P.Nos.12936, 24632, 30676 & 32286 of 2013
and M.P.Nos.1,1,2 & 2 of 2013

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