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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.11.2023

PRONOUNCED ON : 29.11.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.2929 of 2020
& W.M.P.No.3385 of 2020
& W.M.P.No.266 of 2023

P.Kamalakannan

...

Petitioner

versus

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Adi-Dravidar & Tribal Welfare Department,
Secretariat,
Fort St. George, Chennai.

2.The Director / Commissioner of Adi-Dravidar Welfare,
Chepauk,
Chennai - 600 005.

3.The District Adi-Dravidar Welfare Officer,
Thiruvallur,
Thiruvallur District.

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Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to letter of the 1st respondent dated 20.10.2014 having Letter



No.21301/Adi Na 7/2013-9 and letter of the 2nd respondent dated 08.10.2018 having Ref.Na.Ka.No.A1/17580/ 2017 and quash the same and consequently direct the respondents to give full effect to the terms of G.O.Ms.No.60 Adi Dravidar and Tribal Welfare Department dated 07.06.2010 by fixing the seniority of the petitioner, based on retrospective regularization in the post of B.T.Assistant and give presumptive promotion in the posts of Middle School Headmaster and High School Headmaster from the date on which the junior of the petitioner was promoted to the above said posts and to allow all consequential monetary benefits in pay fixation in the said above posts and promote the petitioner as Higher Secondary School Headmaster. (Prayer Amended as per order dated 30.10.2023 in W.M.P.No.260 of 2023 in W.P.No.2929 of 2020)

For Petitioner : Mr.G.Vasudevan

For Respondents : Mr.G.Nanmaran
Special Government Pleader

ORDER

The petitioner has filed this Writ Petition seeking to quash the impugned order of the second respondent dated 08.10.2018 and consequently direct the respondents to give full effect to the terms of G.O.(Ms).No.60 Adi Dravidar and Tribal Welfare Department dated 07.06.2010 by fixing the seniority of the petitioner, based on retrospective regularization in the post of B.T.Assistant and give presumptive promotion



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in the posts of Middle School Headmaster and High School Headmaster from the date on which the junior of the petitioner was promoted to the above said post and by allowing the consequential monetary benefits and promote the petitioner as Higher Secondary School Headmaster.

2. Heard Mr.G.Vasudevan, learned counsel for the petitioner and Mr.G.Nanmaran, learned Special Government Pleader for the respondents and perused the materials available on record.

3. The petitioner was initially appointed as B.T.Assistant on 02.11.1987 in Adi Dravidar Welfare Department. As per the policy decision taken by the State in G.O.(Ms).4(D) No.7, Adi Dravidar Welfare Department (ADW-7) dated 17.06.1991, the services of B.T.Assistants appointed on contract basis in Adi Dravidar Welfare Department from 1986 got regularised. However subject to writing a regular recruitment test conducted by the Teachers Recruitment Board and in the event of selection their services would be regularised with prospective effect.



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4. The petitioner was permitted to appear for the recruitment test conducted by Teachers Recruitment Board on 20.06.1996 and cleared the same. Hence the petitioner's services as B.T.Assistant has got regularised with effect from the date of appointment in regular service. However, on 07.06.2010, the Government Order has been issued in G.O.(Ms).No.60, Adi Dravidar and Tribal Welfare Department to regularise the services of B.T.Assistants appointing the schools run by Adi Dravidar Welfare Department from the date of their initial appointment by giving notional increment from 1991 to 1996 and monetary benefits from the date of the said G.O. The name of the petitioner also included in the list of B.T.Assistants. But his seniority was not fixed in the promotional panel for the post of Higher Secondary School Head Master *vide* proceedings of the Director, Adi Dravidar Welfare Department dated 15.11.2012.

5. Despite the petitioner's junior by name Natarajan included in the panel, the petitioner was not included. The petitioner had sent a representation on 16.07.2018 to the Director, Adi Dravidar Welfare Department, requesting to include his name in the promotion to the post of Higher Secondary School Head Master as on 01.07.2017. In response to the



above letter, it is stated that a clarification issued by the Government *vide* its Letter No.21301/Ad.Na.7/2013-9 of the Secretary, Adi Dravidar and Schedule Tribe Department, Chennai and that would apply to the case of the petitioner.

6. In the above Government letter, a reference was made about the G.O.(Ms).No.60 dated 07.06.2010 and clarified that the seniority of B.T.Assistants, who were appointed between 1986 to 1991 on contract basis got regularised. However, the seniority has to be determined only in accordance with the seniority determined by the Teachers Recruitment Board and not from the date of regularisation.

7. According to the petitioner, there is a discrimination between himself and the juniors, who joined after 3 to 6 years from his appointment as B.T.Assistants. The petitioner was appointed on contract basis and subsequently qualified the examination conducted by the Teachers Recruitment Board and appointed as B.T.Assistant and his services were regularised as per the date of appointment in the regular post. Though the notional increment was allowed from 1991 to 1996, the monetary benefits



can be given only from the date of issuance of G.O.(Ms).No.60 dated 07.06.2010.

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8. The above view was taken into consideration of the earlier regularisation done to other set of similarly placed individuals, who have got qualified between 1992 to 1996. However it is made clear that the seniority of the individuals will be based upon the Teachers Recruitment Board's seniority list not from the date of their initial appointment.

9. So far as the petitioner's case is concerned, he would get regular appointment in the cadre of B.T.Assistant on 02.11.1987, on which date the regularisation benefit was given as per G.O.(Ms).No.60 dated 07.06.2010. The other individual namely Natarajan is said to have been appointed on 27.03.1991 on consolidated pay and his services got regularised with effect from 27.03.1991. Despite the petitioner got the benefit of regularising his services from the year 1987, as per G.O.(Ms).No.60, his seniority will be placed only in accordance with the Teachers Recruitment Board seniority list.

10. Since Natarajan has not been recruited through contract basis but through consolidated scale of pay, the conditions for service



regularisation and the consequential career progress applicable to the persons appointed on consolidated pay basis can not be compared. This is exactly the submission made by Mr.G.Nanmaran, learned Special Government Pleader for the respondents as well.

11. If the petitioner compares himself with the similarly placed person, who were appointed on contractual basis and whose regularisation was done in accordance with G.O.(Ms).No.60 dated 07.06.2010 and state that he is affected, that can be appreciated. But the petitioner has chosen to compare himself with one Natarajan who come through a different entry and whose regularisation was not governed under G.O.(Ms).No.60 dated 07.06.2010.

12. So far as the seniority of the petitioner is concerned, the Government Order in G.O.(Ms).No.60, Adi Dravidar and Tribal Welfare Department, dated 07.06.2010, has been clarified that his seniority is only in accordance with the seniority list fixed by the Teachers Recruitment Board in which the petitioner is in the place 102. Since Natarajan has been appointed on consolidated pay basis, he had arisen to his next level of promotion on an earlier date. The petitioner cannot claim his seniority any



time before 20.06.1996 and neither it can be on any other basis except the seniority be assigned to him by the Teachers Recruitment Board after its selection.

13. Since the claim of the petitioner is fundamentally wrong by making comparison between two unequals, who entered through two different channels of appointment, the respondents had rightly rejected the representation of the petitioner and passed the impugned order.

As I don't find any merits in the Writ Petition, this Writ Petition is **dismissed**. No costs. Consequently, connected Miscellaneous Petitions are closed.

29.11.2023

Speaking order

Index : Yes

Neutral Citation : Yes

sri



To

- 1.The Secretary to Government,
State of Tamil Nadu,
Adi-Dravidar & Tribal Welfare Department,
Secretariat,
Fort St. George, Chennai.
- 2.The Director / Commissioner of Adi-Dravidar Welfare,
Chepauk,
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- 3.The District Adi-Dravidar Welfare Officer,
Thiruvallur,
Thiruvallur District.



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W.P.No.2929 of



R.N.MANJULA, J.

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Pre-Delivery Order made in
W.P.No.2929 of 2020

29.11.2023