



W.P.No.29244 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2023

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THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.29244 of 2011
and M.P.No.2 of 2011

1.G.Arunagiri
2.B.Ramamurthy

... Petitioners

Vs.

1.The State of Tamil Nadu
Rep.by its Secretary to Govt.,
School Education Department
Fort St.George, Chennai – 600 009.

2.The Director of Elementary Education
College Road, Chennai – 600 006.

3.The District Elementary Educational Officer
Thiruvannamalai District
Thiruvannamalai.

4.The District Elementary Educational Officer
Villupuram District
Villupuram.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent having Ref.Na.Ka.No.12621/D4/2011 dated 07.06.2011 and quash the same and consequently direct the respondents to promote the petitioners to the post of Primary School Head Master / BT Assistant / Middle School Head Master in the Tamil Nadu Primary Educational Subordinate Service Rules with all attendance benefits.

For the Petitioners : Mr.R.Venkatavaradhan

For the Respondents : Mr.T.K.Saravanan
Government Advocate

ORDER

This Writ Petition is filed challenging the order of the second respondent dated 07.06.2011 in and by which, the representation of the petitioners was considered and the prayer of the petitioners to grant promotion as Primary School Headmaster was rejected.

2.It is reported that the 2nd petitioner died and as such, the matter is considered in respect of the other petitioner.



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3.The grievance of the petitioners is that they were working as Pre-Vocational Teachers and since considering their qualification equivalent to that of the Diploma in Teacher Training, they were also treated on par with the Secondary Grade Teacher. While they were treated as Secondary Grade Teacher for all purposes, including scale of pay, they were never considered for promotion to the higher post of Primary School Headmaster or Middle School Headmaster eventhough the petitioners possess the Bachelor's degree and B.Ed., degree.

4.Therefore, when the petitioners approached this Court by way of W.P.No.17327 of 2009, the respondents agreed to consider the case of the petitioner in the light of the earlier orders. Inspite there of, now by the impugned order, petitioner's case is rejected.

5.*Mr.Venkatavaradhan*, learned counsel appearing on behalf of the petitioners would submit that the rights of parties are governed by the order dated 12.04.2011 made in the earlier Writ Petition. As per the same, the



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respondents are duty bound to consider the case of the petitioners, in the light of the previous orders, which is passed in the case of three similarly situated persons viz., *S.Anbananthan, M.Balakrishnan and G.Selvam*. It can be seen that in respect of the said cases, the Writ Petition filed by them in W.P.No.25803 of 2005 was allowed by an order dated 17.12.2007. But however, on appeal, the Division Bench of this Court by an order dated 01.12.2009 in W.A.No.1824 of 2009 disposed of the same on the following terms:

“4.We, however, feel that the respondents could certainly be considered for the post of Headmaster in a Primary School if they had put in sufficient period of service and if they had obtained B.Ed., qualification, although they might have joined initially without that qualification. The direction of the learned single Judge to consider the representation of the respondents ought to have been honoured by now. In any case, the learned Special Government Pleader has made a statement that the representation of the respondents will be considered and decided within a period of four weeks from today, i.e., by the end of December 2009. That is necessary, particularly considering the fact that the first respondent herein is due to retire in May 2010, as stated by the learned counsel appearing for the respondents.”

6.Thus, it can be seen that even though the petitioners could not have been promoted to the post of Middle School Headmaster, since there are



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available heads in BT Assistant as well as the Primary School Headmaster cadre, at least, the petitioners should have been promoted to the post of Primary School Headmaster.

7.Per contra, the learned Government Advocate appearing on behalf of the respondents would submit that as a matter of fact, when directions were given in the earlier round of litigation, the rule position was not amended and by the time, the petitioners case came up for consideration. The rule has been amended and since the petitioners are not eligible as per the special rules, since they have only possessed short term training certificate, while as per the rules, two years Diploma in Teacher Training is essential. In fact, even in the impugned order, it is mentioned that the relief which was granted to the three teachers in the earlier round was erroneous.

8.The learned Government Advocate further produces an order dated 22.09.2012 in and by which, the promotion granted to one of the three persons, viz., *M.Balakrishnan*, was cancelled and he was reverted as Pre-Vocational Teacher. As a matter of fact, the learned Government Advocate



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makes a statement across the bar, even in respect of the other two persons, as such promotions as Primary School Headmaster has not been given.

9.Considered the rival submissions made by the learned counsel on either side and perused the materials records of the case.

10.When the rules, in respect of the post has been amended and as per the amended rule position, two years Diploma in Teacher Training is an essential qualification, then, merely because the petitioners were treated as Secondary Grade Teachers, the basic essential qualification cannot be given a go by and they cannot be promoted. As such I do not find any error in the reasoning contained in the impugned order. Further contention of the petitioners is that in respect of the similarly situated persons in the earlier round, such defence has not been taken or such defence has been taken and deemed to be rejected and therefore, when the other three Pre Vocational Teachers are given the benefit, the same is to be extended to the petitioners also. To this, on a perusal of the order dated 22.09.2012, it is clear that promotion granted to *Balakrishnan*, has been cancelled. No other material is



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placed by the learned counsel for the petitioners that promotion is given in respect of other two Teachers.

11.The learned Government Advocate makes a categorical statement that no promotion was granted in respect of the other two persons. As a matter of fact, when a similar claim was made for the promotion at the Higher Secondary level by a Judgment dated 03.01.2019 in W.A.No.2860 of 2018 prayer of the Vocational Instructor was rejected. It is a trite that a person cannot claim any promotion in contravention of the rules governing the post. Therefore, when the petitioners does not possess the educational qualifications, which is prescribed for the post, this Court cannot order the respondents to grant promotion. In the earlier round also, the direction was not positive in nature, but, by way of a direction to the Government, to consider the same. The Government has considered the same and taken a decision, which is applicable to everyone concerned, no exception can be taken in respect of the said decision.



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12. Accordingly, finding no merit in the Writ Petition, the same stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

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Index: Yes

Speaking Order: Yes

Neutral Citation: Yes

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D.BHARATHA CHAKRAVARTHY, J.,

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