



W.P.No.24743 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

W.P.No.24743 of 2013

and

M.P.Nos.1 & 2 of 2013

B.Thaharulla

....Petitioner

vs

1. Director of Elementary Education,
Chennai - 600 006.

2. District Elementary Educational Officer,
Villupuram - 605 602
Villupuram District.

3. Additional Assistant Elementary
Educational Officer,
Thiruvannainallur-607 203
Thiurkoilur Taluk,
Villupuram District.

.... Respondents

Writ Petition filed under Article 226 of the Constitution to issue a
Writ of Certiorarified Mandamus to call for the records pertaining to the
order passed by the 2nd respondent in his proceedings



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Na.Ka.No.3961/A3/2011 dated 17.11.2011 and quash the same and direct the respondents to fill up the post of Headmaster of Middle School at Panchayat Union Muslim Urdu Middle School, T.Edappalayam, Thiurvennainallur Panchayat Union, Villupuram District with Urdu qualified person and consider the petitioner for the same.

For Petitioner : Mr.P.Ganesan

For Respondents : Mr.S.Mythreye Chandru
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the order passed by the 2nd respondent in his proceedings Na.Ka.No.3961/A3/2011 dated 17.11.2011 and quash the same and direct the respondents to fill up the post of Headmaster of Middle School at Panchayat Union Muslim Urdu Middle School, T.Edappalayam, Thiurvennainallur Panchayat Union, Villupuram District with Urdu qualified person and consider the petitioner for the same.

2. The brief facts of the case of the petitioner are as follows:

The petitioner joined as Secondary Grade Teacher in Panchayat Union Muslim Urdu Elementary School, Kalamarudur, Tirunavalur Panchayat Union on 08.11.2004 on consolidated pay. Thereafter, he was



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given time scale of pay with effect from 01.06.2006 and was given Secondary Grade Teacher post. While so, as there was surplus post of Secondary Grade teacher in Tirunavalur Panchayat Union, the petitioner was redeployed and posted in Panchayat Union Muslim Urdu Elementary School, Prithivimangalam, Thiyagadurgam Panchayt Union on 14.02.2006. While so, as per the request of the petitioner, he was transferred on 20.09.2006 in the vacancy at Panchayat Union Muslim Urdu Middle School. While he was working as Secondary Grade Teacher in T.Edappalayam Panchayat Union Muslim Urdu Elementary School, the said Panchayat Union Muslim Urdu Elementary School was upgraded as Middle School as Panchayat Union Muslim Urdu Middle School and he was posted as in-charge Headmaster and as he got Adib-I-Fazil qualification, which is equivalent to B.A-Urdu, he was entitled to be promoted as BT Grade Middle School Headmaster. Though the petitioner was working as Secondary Grade Teacher, there is no Urdu qualified teacher either in the cadre of B.T.Assistant - Urdu or in the cadre of Headmaster of Elementary School throughout the Thiruvannainallur Panchayat Union. As far as Tamil Pandits are concerned, they are automatically eliminated because Tamil Pandits cannot take Urdu Classes in Urdu Medium. As on date, the



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petitioner is the only qualified person working in Thiruvannainallur Panchayat Union and eligible for promotion to the post of Middle School Headmaster. The 3rd respondent has not drawn the panel for the post of Headmaster for Urdu Medium. The petitioner made representation to the 2nd respondent requesting to draw panel and give promotion to him as Headmaster of Middle School on 9.4.2011 referring the Special Rules for Urdu. He was orally informed by the respondents that it has been filled up as per the panel, which has already been drawn for the post of Middle School Headmaster. As far as the panel drawn already, it is only for the Tamil Medium School. The persons included in the said panel are not having Urdu qualification and they are ineligible for promotion to the post of Headmaster of Urdu Medium Middle School. Therefore, the petitioner filed writ petition in W.P.No.12654 of 2011 seeking a direction to the respondent to promote him to the said post. This Court, passed an order to consider the representation of the petitioner considering the rule position. Since the respondents have not passed any order, the petitioner filed Contempt Petition No.456 of 2012 in which, the respondents filed counter stating that one post of Headmaster of Middle School was sanctioned in Panchayat Union Muslim Urdu Middle School, T.Edappalayam and rejected



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the petitioner's claim by the impugned order dated 17.11.2011 and the contempt petition was closed stating that the rejection order has to be challenged. Since the petitioner filed contempt petition, on 20.06.2012, he was placed under suspension on 4.9.2012. Thereafter, since no action was taken, the petitioner filed W.P.No.9813 of 2013 to direct the respondents to complete the disciplinary proceedings within a prescribed period. This Court passed an order directing the respondents to pass orders within three months. Thereafter, the suspension order was revoked on 27.7.2013. Since the petitioner was placed under suspension, he could not challenge the order of rejection, rejecting the claim of the petitioner for promotion to the post of Headmaster of Middle School (Urdu) dated 17.11.2011. Hence, the present writ petition with the aforesaid relief.

3. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

4. Learned counsel for the petitioner would contend that the linguistic schools are to be manned only by the teachers who have got qualification in the concerned language. In the instant case, it is Urdu School and all the teachers are to be appointed only with Urdu qualification. Separate selection was made for the minority linguistic schools. Therefore, the respondent



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ought not to have denied promotion to the petitioner as Headmaster. He would further submit that if the School is Urdu medium School, the post of Headmaster when sanctioned, it has to be filled up with fully qualified person, otherwise, there is no meaning in having separate School for Urdu people. Due to the pressure of various individuals, Tamil medium qualified persons are appointed as Secondary Grade Teacher in Urdu Minority Insitution. Therefore, the appointment of non-urdu person as Headmaster of Middle School is illegal and against the rights guaranteed to the minorities under Article 30 of the Constitution of India.

5. Per contra, the learned Special Government Pleader would contend that the School in which the petitioner is employed is not fully linguistic minority school in Urdu and the School is a bilingual language school and the petitioner is also not fully qualified for the post of Elementary School Headmaster and thus, there is no scope of promotion of the petitioner by way of out of turn method also.

6. This Court, considered the submissions made on either side and perused the materials available on record.

7. It is seen that the petitioner was appointed as Secondary Grade Teacher in the Panchayat Union Elementary School, Kalamarudur in



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Thirunavalur Union on 08.11.2004 on consolidated pay. At the time of appointment, his educational qualification is Diploma in Teacher Education (Secondary Grade Teacher Certificate) in Urdu. While in service, he acquired the qualification of Adib-I-Fazil, which is equal to B.A. Degree in Urdu. His service was regularized with effect from 01.06.2006. Since there was one surplus post in that school, the petitioner was transferred to Panchayat Union Elementary School, Prithivimangalam (Urdu) Thiyagadurgam Union on 14.02.2006. Thereafter, on his request, he was transferred to Panchayat Union Middle School, T.Edapalayam (Urdu) in Thiruvannainallur Union on 20.09.2006 and continuing as such till date. The post of Elementary School Headmaster of Panchayat Union Middle School, T.Edapalayam,(Urdu) fell vacant from 01.06.2011 due to retirement of the existing person. As the School is recently upgraded into Middle School, the vacant post of Elementary School Headmaster is to be upgraded into Middle School Headmaster. The said School is running with Standards I to VIII and the students of the school are being taught in Tamil medium only. Urdu is being taught as one of the additional language like English. The two Urdu Secondary Grade Teachers including the petitioner teach Urdu language and the other teachers teach the other subjects in Tamil



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medium.

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8. It is pertinent to point out that the Government had passed orders for the mode of appointment of Headmasters in Panchayat Union Primary and Middle Schools in G.O.Ms.No.1383 Education (PUS-1) Department dated 23.08.1988 as Special rules for the Tamilnadu Elementary Educational Subordinate Service. It is specifically stated in para 5 of the said Government Order that a vacancy in the post of Headmaster/ Headmistress in a Middle or Primary School especially provided for linguistic minority shall be filled up by transfer of any member of the same grade who is in possession of the respective language qualification and who may be employed at the time of the vacancy in an institution not specially provided for linguistic minority. Further, it is stated that the promotion by out of turn method is applicable only to the schools run by entirely linguistic minority language and not to the bilingual language school. The petitioner is now serving as Secondary Grade Teacher only and there is no provision in the Rules for promotion of Middle School Headmaster directly from the Secondary Grade Teacher. Now, the petitioner had filed this writ petition seeking promotion as Middle School Headmaster directly from Secondary Grade Assistant. The feeder categories for promotion to the post of Middle



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School Headmaster are Elementary School Headmaster, Tamil Pandit and B.T. Assistant. The petitioner is not working in any one of the above three categories. He is working as a Second Grade Teacher only. Therefore, he is not eligible of promotion to the post of Middle School Headmaster either as per general seniority or as per out of turn method Headmaster served previously in the school. Thus, the respondent has rightly rejected the claim of the petitioner.

9. For the reasons discussed above, this Court is of the opinion that the writ petition is liable to be dismissed. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No
Speaking/Non-speaking order
vsi

To

1. Director of Elementary Education,
Chennai - 600 006.
2. District Elementary Educational Officer,
Villupuram - 605 602
Villupuram District.



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3. Additional Assistant Elementary
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