



W.P.Nos.39557 to 39559 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

W.P.Nos.39557 to 39559 of 2015

and

M.P.Nos.2 & 2 of 2015

D.Madalaimuthu,
S/o Late M.Duraisamy,
Secondary grade Assistant Teacher,
Government Higher Secondary School,
Malliyakarai (Village & Post),
Attur (Taluk),
Salem District -636 107 Petitioner in all the W.Ps.

vs

1. The Director of School Education,
College Road, Nungambakkam,
Chennai - 600 006.
2. The Joint Director of School Education
(Personnel), College Road, Nungambakkam,
Chennai - 600 006.
3. The Chief Educational Officer,
Collectorate,
Salem District - 636 001.
4. The District Educational Officer,
Collectorate, Salem,
Salem District - 636 001.



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5. The District Educational Officer,
District Educational officer,
Sankagiri & Taluk,
Salem District.

6. The Head Master,
Government Higher Secondary School,
Malliyakarai and Post,
Attur Taluk,
Salem District - 636 107. Respondents in all the W.Ps.

Prayer in W.P.No.39557/2015

Writ Petition filed under Section 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for all the records pertaining to the order passed by the third respondent herein vide his proceedings Mu.MuNo.10302/A5/2011 dated 22.08.2011 and quash the same and further direct the respondents 1 and 2 to include the petitioner's name in the seniority panel for the year 2011, fit for promotion to the post of B.T. Assistant (History/Geography) at the appropriate place and promote the petitioner as B.t.Assistant (History) with effect from the date of promotion of his immediate junior with all the consequential benefits.

Prayer in W.P.No.39558/2015

Writ Petition filed under Section 226 of the Constitution of India to



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issue a Writ of Certiorari to call for the records pertaining to the order in proceedings Na.Ka.No.9203/A5/2008 dated 28.08.2014 of the 3rd respondent herein and quash the same.

Prayer in W.P.No.39559/2015

Writ Petition filed under Section 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the order in (1) Proceedings Na.Ka.No.9205/A4/2008 dated 12.12.2008 of the third respondent, (2) Proceedings Na.Ka.No.40032/C4/09 dated 24.09.2009 of the second respondent (3) Na.Ka.No.39900/C4/E2/2012 dated 03.02.2015 of the first respondent herein and quash the same.

For Petitioner
in all the W.Ps. : Mr.P.Ganesan

For Respondents
in all the W.Ps. : Mr.M.Rajendran,
Additional Government Pleader.

COMMON ORDER

W.P.No.39557 of 2015 has been filed challenging the rejection order passed by the 3rd respondent, rejecting to add the petitioner's name in the panel list of the year 2011. W.P.No.39558 of 2015 has been filed



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challenging the final order of the 3rd respondent imposing the punishment of censure. W.P.No.39559 of 2015 has been filed challenging the orders dated 12.12.2008, 24.09.2009 and 03.02.2015 passed by the 3rd, 2nd and 1st respondents respectively, viz., i) charge memo under rule 17(a), (ii) punishment of stoppage of increments for two years with cumulative effect and (iii) punishment of stoppage of increment for one year without cumulative effect respectively.

2. As all these writ petitions are directed against the orders of punishment and non-inclusion in the promotion panel by one and the same petitioner, these writ petitions are taken up together and disposed of by a common order.

3. The case of the petitioner in brief is as follows:

i)The petitioner was initially appointed as Secondary Grade Teacher in the Government Aided School as early as on 16.06.1998 and thereafter, he was appointed as Secondary Grade Teacher on 24.08.2001 in Government High School. Presently, he is working as Secondary Grade Teacher at Government Higher Secondary School, Malliyakarai, Attur Taluk, Salem District. He had acquired B.A. Degree, M.A.Degree, B.Lit Degree(Tamil), B.Ed. degree, M.A.Degree (Economics). Based on the said



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additional qualification, he is eligible to be included in the panel of State vide seniority for promotion, fit for the post of Tamil Pandit from 2007 and B.T. Assistant from 2009 onwards. Because of the disciplinary proceedings initiated against the petitioner by two set of charge memos dated 12.12.2008, the promotion to the post of B.T. Assistant is being denied till date. The 17(b) charge memo dated 12.12.2008 ended with punishment of censure vide order of the 3rd respondent dated 28.08.2014 and 17(a) charge memo dated 12.12.2008, culminated with the punishment of stoppage of increment.

ii) In regard to memo dated 12.12.2008, issued under Rule 17(a) of the Rules, an explanation was submitted by the petitioner on 29.12.2008. The punishment of stoppage of increment for two years with cumulated effect was imposed by proceedings dated 15.04.2009 by the 3rd respondent. On appeal, it was reduced to stoppage of increment for one year with cumulative effect by proceedings of the 2nd respondent dated 24.02.2009 and ultimately, the said punishment was further modified to stoppage of increment for one year without cumulative effect vide proceedings of the 1st respondent dated 3.2.2015. In respect of the occurrence on 06.11.2008, the punishment ended on 03.02.2015, after a long delay of 7 years. The crucial



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date for inclusion of the name of the petitioner for promotion for the year 2001 is 01.01.2011. As on 01.01.2011, punishment for two years with cumulative was in force which was ultimately modified as one of stoppage of increment for one year without cumulative effect vide order dated 03.02.2015.

iii) The petitioner submitted a representation dated 09.08.2011 seeking inclusion in the panel to the post of B.T. Assistant and promotion thereof. The 3rd respondent in his reply dated 22.08.2011 has informed the petitioner that in view of the disciplinary proceedings, his name could not be included in the panel. Hence, this writ petition has been filed.

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

4. Though the petitioner has challenged the rejection order passed by the 3rd respondent rejecting to include the petitioner's name in the seniority panel for the year 2011, learned counsel for the petitioner would state that the petitioner has undergone the punishment and now, the check period was already over in the year 2015 itself, which is also not disputed by the learned Additional Government Pleader. Therefore, the learned counsel would submit that the respondents ought to have given promotion to the



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petitioner from 2015 onwards.

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5. Since the petitioner had already suffered punishments, this Court does not want to go into correctness of the punishments, at present. The petitioner ought to have been promoted from the year 2015 onwards after the check period was over. Therefore, the respondents 1 to 3 are directed to consider the promotion of the petitioner from 2015 and pass appropriate orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. Accordingly, W.P.No.39559 of 2015 is disposed of. Consequently, W.P.Nos.39557 & 39558 of 2015 are dismissed. No costs. The connected miscellaneous petitions are closed.

30.03.2023

Index: Yes/No

Speaking/Non-speaking order

vsi

To

1. The Director of School Education,
College Road, Nungambakkam,
Chennai - 600 006.
2. The Joint Director of School Education
(Personnel), College Road, Nungambakkam,
Chennai - 600 006.



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J.NISHA BANU,J.

vsi

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Salem District - 636 001.
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Salem District - 636 001.
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