



W.P.No.21829 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.21829 of 2019

and

W.M.P.Nos.21040, 21044 & 21045 of 2019

D.Selvam

... Petitioner

Vs.

The Commissioner of Social Defence,
No.33, Purasaiwalkam High Road,
Chennai-600 010.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorafied Mandamus, to call for the records connected with the proceedings issued in No.11607/A1/2018 dated 25.01.2019 passed by the respondent and quash the same and consequently, direct the respondent to allow the petitioner to continue in the post of Assistant Superintendent.



W.P.No.21829 of 2019

WEB COPY

For Petitioner : Mr.S.Ilamvaludhi

For Respondent : Mr.L.S.M.Hasan Fizal
Additional Government Pleader

ORDER

This Writ Petition has been filed to quash the proceedings of the respondent dated 25.01.2019 and consequently, direct the respondent to allow the petitioner to continue in the post of Assistant Superintendent.

2.The learned counsel appearing for the petitioner would submit that the petitioner joined as Secondary Grade Teacher on 12.09.2008. On 31.10.2013, he was promoted to the post of Assistant Superintendent and worked in the office Government Children Home, Villupuram till 24.01.2019. Thereafter, the petitioner was reverted to the post of Secondary Grade Teacher from the post of Assistant Superintendent by the proceedings dated 25.01.2019. Challenging the same, this Writ Petition has been filed.



W.P.No.21829 of 2019

WEB COPY

3.The learned Additional Government Pleader appearing for the respondents would submit that the petitioner was promoted as Assistant Superintendent on 29.10.2013. Thereafter, the respondent issued proceedings dated 18.11.2013 stating that the petitioner has to pass the eligible test for the Assistant Superintendent post within a period of two years. Thereafter, the Government amended the Rules in the Government Servants (Conditions of Service) Act 2016. Under Section 34(4) of the Act, the maximum period upto which the probation of the Government Servant shall be extended so as to enable him to acquire the test qualification, be fixed as five years. If he does not acquire the test qualification even within the maximum period of five years, he shall be reverted and the qualified and the eligible junior shall be considered for promotion. If such a person is appointed by direct recruitment and has not acquired the test qualification even within the maximum period of five years, his promotion shall be terminated. Further, as per G.O.Ms.No.1120, Personnel and Administrative



W.P.No.21829 of 2019

WEB COPY

(Service (M) Department dated 30.10.1984, exemption is granted to the employees whose age should be not less than 53 years from passing the Special Test/Department Test, The petitioner appeared in the Departmental examination for five times, but he did not pass the test and further, the petitioner did not cross the age of 53 years. Therefore, he was reverted back from the Assistant Superintendent post to the Secondary Grade Teacher.

4.On a perusal of the records, it is seen that the petitioner joined as Secondary Grade Teacher on 12.09.2008 and he was promoted to the post of Assistant Superintendent on 31.10.2013 and worked in the office Government Children Home, Villupuram till 24.01.2019. Thereafter, the petitioner was reverted to the post of Secondary Grade Teacher from the post of Assistant Superintendent by the proceedings dated 25.01.2019. Further, the Government amended the Rules in the Government Servants (Conditions of Service) Act 2016. Under Section 34(4) of the said Act, the maximum period upto which the probation of the Government Servant shall be extended so as to enable him to acquire the test qualification, be fixed as



W.P.No.21829 of 2019

five years. If he does not acquire the test qualification even within the maximum period of five years, he shall be reverted and the qualified and the eligible junior shall be considered for promotion. If such a person is appointed by direct recruitment and has not acquired the test qualification even within the maximum period of five years, his promotion shall be terminated. Further, as per G.O.Ms.No.1120, Personnel and Administrative (Service M) Department dated 30.10.1984, exemption is granted to the employees whose age should be not less than 53 from passing the Special Test/Department Test. The petitioner appeared in the Departmental examination for five times, but he did not pass the test and further, the petitioner did not cross the age of 53 years during that period. Therefore, he was reverted back from the Assistant Superintendent post to the Secondary Grade Teacher. Now the petitioner crossed the age of 53 years and as per the G.O.Ms.No.1120, dated 30.10.1984, he is entitled for exemption for the Special Test/Departmental Test to the employees who aged 53 crossed. Hence, the petitioner is entitled to the benefit of the said Government Order.



WEB COPY



W.P.No.21829 of 2019

V.BHAVANI SUBBAROYAN, J.
mps

5. Accordingly, this Writ Petition is disposed of. The respondent is directed to consider the representation of the petitioner dated 14.03.2019 and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

15.12.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
mps

To

The Commissioner of Social Defence,
No.33, Purasaiwalkam High Road,
Chennai-600 010.

W.P.No.21829 of 2019



WEB COPY



W.P.No.21829 of 2019

and W.M.P.Nos.21040,
21044 & 21045 of 2019