



W.P.No.27264 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.03.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.27264 of 2019

A.Arumuthu Valliappan

... Petitioner

Vs.

1. The State of Tamilnadu
rep. By its Secretary to Government,
School Education Department
Fort St. George, Chennai – 600 009

2. The Director of School Education,
DPI Complex,
College Road, Chennai – 600 006

3. The Chief Educational Officer,
Villupuram District
Villupuram

... Respondents

Writ Petition is filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the 3rd respondent to include the name of the petitioner in the 2019 Panel of PG Assistant for promotion to the post of Headmaster in any one of the Government Higher Secondary Schools in Villupuram District by treating the seniority of the petitioner in



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the cadre of PG Assistant as 2002 and forward the said panel to the 2nd respondent for appropriate action.

For Petitioner : M/s. C.Uma

For Respondents : Mr.M.S.Premkumar
Government Advocate

ORDER

The present Writ Petition has been filed for issuance of a Writ of Mandamus directing the 3rd respondent to include the name of the petitioner in the 2019 Panel of PG Assistant for promotion to the post of Headmaster in any one of the Government Higher Secondary Schools in Villupuram District by treating the seniority of the petitioner in the cadre of PG Assistant as 2002 and forward the said panel to the 2nd respondent for appropriate action.

2. The brief facts of the case is that the petitioner was appointed as P.G.Assistant in Corporation High School, T.H.Road, Chennai by the proceedings of the Corporation Assistant Commissioner [Education] dated 23.12.2002 and by virtue of G.O.Ms.No.702, Education Department dated 23.05.1998, the petitioner should be treated as Government Servant from 23.12.2002. The relevant year for fixing the seniority for the purpose of



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inclusion of the name of the petitioner in the panel of PG Assistant for promotion to the post of Headmaster is 2002.

(ii) Further, the petitioner was transferred to Government Higher secondary School, Vadakanandal, Villupuram on mutual transfer, that too unit to unit by proceedings dated 05.08.2009. However, the petitioner's name has not been included in the 2019 panel of PG Assistant in Villupuram District for promotion to the post of headmaster treating the petitioner has become government servant only in the year 2009. The 3rd respondent has failed to take note of G.O.Ms.No.702 Education Department dated 23.05.1988, pursuant to which, the petitioner's seniority in the cadre of PG Assistant should be fixed as 2002, but the same has not been done, hence this petition.

3. The learned counsel for the petitioner would submit that the petitioner passed the Teacher Recruitment Board Exam for PG Assistant post in the year 2002 and he was joined as PG Assistant on 24.12.2002 and he was regularised in the post of PG Assistant w.e.f. 24.12.2002 and his probation was declared on 24.12.2004. Further, the Government of Tamilnadu passed G.O.Ms.No.702 Education Department dated 23.0.1988 stating that teaching and non teaching staff working in schools under the



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control of Corporation, Municipalities and Municipal Town Ships will be treated as Government servants from 01.06.1980, hence by virtue of the said G.O., the petitioner should be treated as Government servant from 24.12.2002.

4. The learned counsel for the petitioner also submits that the petitioner was transferred to Government Higher secondary School, Vadakanandal, Villupuram District on mutual transfer, that too unit to unit by proceedings dated 05.08.2009. However, the petitioner's name has not been included in the 2019 panel of PG Assistant in the villupuram District for promotion of headmaster, because the 3rd respondent has treated the petitioner as if he became a government servant only in the year 2009. Hence this petition.

5. Per contra, the learned Government Advocate for the respondents submit that the petitioner had applied for a mutual transfer with one R.Shankar, who was serving at the Government Higher Secondary School, Vadakkanandal and the same was considered vide proceedings dated 05.08.2009. As such, the petitioner was relieved from the Unit of Corporation, Madras and joined Government Higher Secondary School,



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Vadakanandal on 07.08.2009, which is under School Education Unit and accordingly, R.Shankar has been relieved from the Government Higher Secondary School, Vadakanandal by proceedings dated 01.04.2007 and joined in the resultant vacancy of the petitioner. Therefore, there is no other reason whatsoever for not including his name in the 2019 Panel for the promotion of headmaster. Hence this petition.

6. The learned Government Advocate appearing on behalf of the respondents also submitted that eventhough the corporation teachers were treated as government servants, their seniority is maintained separately. Further, the Corporation of Chennai and the School Education Department are separate units. If a teacher obtained transfer on mutual or one way from the Corporation or Municipal School to Government School under the School Education or elementary education Department or vice versa, he or she would be treated as junior most of the category in the transferred unit. Further more, the G.O.Ms.No.702 Education Department dated 23.05.1988 does not specify about the maintenance of seniority of the corporation / municipal and municipal township school teachers. Hence the prayer in the Writ petition is liable to be rejected, thereby seeks to dismiss the present petition.



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7. Heard the learned counsel on either side and perused the documents placed on record.

8. On going through the documents placed on record it is seen that the petitioner was initially appointed as PG Assistant in Corporation High school, Chennai on 23.12.2002, which is not in dispute. The petitioner sought for a mutual transfer and the said application was considered by the authorities by way of proceedings in Na.ka.No.E9/7600/2009 dated 05.08.2009 and as per the said conditions stipulated therein, it is clear that the persons who have been transferred from one unit to another will be kept under the bottom of the teachers, who are already working in the said school and the petitioner cannot seek for preference to be kept in the top of the list, eventhough he / she may be senior in the other unit, viz., transferred unit.

9. That apart, the petitioner having agreed the conditions stated supra had joined the school at Villupuram during August 2009 and now cannot seek for a preference in the school, where he has been transferred. The government servant transferred from one unit to another or one way from the Corporation or Municipal School to Government School under the



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School Education or elementary education Department or vice versa, will be treated as junior most in their respective category in the transferred unit and the petitioner's seniority has also been fixed appropriately by the said unit at Villupuram and therefore, the petitioner's prayer, viz., to include his name in the 2019 Panel of PG Assistant for promotion to the post of Headmaster, cannot be allowed and the same will defeat the very purpose of the government policy and the petitioner's rights are no way affected. The petitioner's turn, if any, will be taken up once he is fit for promotion in the upcoming years.

In view of the above the present Writ Petition is dismissed. No costs.

20.03.2023

Index : Yes/No
Internet : Yes/No
ssd

To

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V.BHAVANI SUBBAROYAN, J.,

ssd

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