



W.P.No.4883 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.4883 of 2017
and
W.M.P.No.5108 of 2017

K.Natarajan

Vs.

... Petitioner

1. The Director,
The Directorate of Elementary School Education,
College Road,
Nungambakkam,
Chennai-34.
2. The District Elementary Educational Officer,
Thiruvallur.
3. The Additional Assistant Elementary Educational Officer,
Gummidipoondi,
Thiruvallur District.
4. T.Venkatesalu, M.A.(History),
Panchayat Union Middle School,
Gummidipoondi,
Thiruvallur District.



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5. M.Sudhakar,
M.A.(History) Panchayat Union Middle School,
Gummidipoondi,
Thiruvallur District. . .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorified Mandamus, to call for the records pertaining to the Impugned Priority list I dated 25.01.2016 of Head Master in panchayat Union Middle Schools in Gummidipoondi Union, Thiruvallur District prepared by the 3rd respondent and quash the same as highly illegal and further for a direction to the 2nd and 3rd Respondents to consider the petitioners promotion to the post of Head Master in panchayat Union middle School Thiruvallur District from 12.10.2009 and based on such promotion to pay the arrears in the difference of salary from 12.10.2009 considering the petitioners representation dated 17.01.2017.

For Petitioner : Mrs.Karthikaa Ashok

For Respondents : Mr.K.H.Ravikumar,
Government Advocate
for R1 to R3

Ms.R.Apoorva
for Mr.M.Ravi
for R4 and R5



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ORDER

This Writ Petition has been filed to quash the order of the Impugned Priority list dated 25.01.2016 of Head Master in Panchayat Union Middle Schools in Gummudipoondi Union, Thiruvallur District prepared by the 3rd respondent as highly illegal and further for a direction to the respondents 2 and 3 to consider the petitioners promotion to the post of Head Master in Panchayat Union middle School, Thiruvallur District from 12.10.2009 and based on such promotion to pay the arrears in the difference of salary from 12.10.2009 removing the respondents 4 and 5 from the list since their placement and continuation of service is illegal and violation of general rules and considering the petitioners representation dated 17.01.2017.

2.The petitioner was appointed as B.T.(Maths) Teacher on 01-07-2004. His service was regularized on 01-06-2006 and his promotion was approved on 31-05-2008. The petitioner is working at Pallikapettai Union



Middle School, Gummidipoondi Panchayat Union, Thiruvallur District.

The said School is located at the Tamil Nadu Boundary adjacent to the State of Andhra Pradesh and the said School have Telugu as one of the medium of instruction to facilitate the Telugu students. Hence, the schools had recruited the Telugu Teachers like the 4th and 5t respondents. Further, the next avenue of their promotion is to the post of Head Master. It was in the year 2009, there arose vacancies for the post of the Head Master, even by that time, the petitioner was eligible to be promoted, but the Priority list for the promotees had contained Telugu Teachers who were not eligible to the promotions. Inspite of his sincere objections the ineligible persons were considered for promotions. In 2009, the panel list prepared and the name of the petitioner is placed in Serial No.11. The name of the respondents is not reflected in the panel list because they did not clear the Tamil Test within the prescribed time, whereas, the priority list prepared for the year 2015 for the post of Head Master does not contain the name of the petitioner.

3.Hence, the petitioner preferred a Writ Petition in W.P.No.44131 of



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2016 challenging the Priority List contained in Form-02 dated 25-01-2016 prepared by the 3rd Respondent for the promotion to the post of Head Master in Panchayat Union Middle School and for a direction to place the name of the petitioner in Sl.No.3 by removing the 4th and 5th respondents therein. The persons who are not eligible for promotion and liable to be discharged from service as per the General Clause Rule and in the said Writ Petition this Court had passed an Interim Order holding that the promotions made based on the priority list in Form-02 is subject to the result of the above said Writ Petition and the Writ Petition is pending.

4.Further, the petitioner was waiting for promotion to the post of the Head Master from the year 2009. The 4th and 5th respondents were appointed as secondary grade teachers on 15-02-1991 and 30-01-1991 respectively. Both the respondents 4 and 5 belong to the non-tamil category and as per the rules, they are required to pass through the Tamil knowledge Test (or) S.S.L.C. Second Language (Tamil) Exam at the time of appointment. Both the individual Respondents were not possessing the



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Tamil language acquaintance certificate, the said respondents 4 and 5 have not satisfied the term of Clause 12(A) of the Tamil Nadu Service Rules. It could be evidentially seen from the Gazette Publication that the 4th and 5th Respondents cleared the Tamil test on May 1994 and February 1995, respectively.

5.The learned counsel appearing for the petitioner would submit that the service of the petitioner has been regularized on 01.06.2006 and his probation was approved on 31.05.2008. If at all the service of the 4th and 5th respondents are considered for continuity of service, both the individual respondents are to be placed in the priority list next to the petitioner by fixing the seniority of the petitioner. Considering the eligibility above, the 4th and 5th respondents whose service become eligible prejudicing the rule. But, without following the rules of GOs, the 4th and 5th respondents are continuously placed in the priority possessions in the list of promotional candidates. As per the Rule 12(A) of the General Clauses Rule, the promotion of the petitioner to the post of Head Master to be fixed notionally



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in the year 2009. In this regard, the petitioner made a representation to the respondents dated 17.01.2017 and the same is not considered by the respondents.

6.The learned Government Advocate appearing for the respondents 1 to 3 would submit that the petitioner has entered into service as B.T. Assistant (Maths) with effect from 01.07.2004 and worked till date. The 4th and 5th respondents have entered into service as Secondary Grade Teacher with effect from 15.02.1991 and 30.01.1991, respectively and they have been promoted to the post of Primary School Headmaster with effect from 23.06.2003 and 25.09.2003 and subsequently, promoted to the post of B.T. Assistant with effect from 05.11.2007. As per rule in force and with reference to the guidelines issued by the 1st respondent dated 18.12.2008, a panel for promotion as Middle School B.T. Headmaster has been prepared by the 3 respondent as on 1.1.2009. In the said panel the name of the 4th and 5th respondents has been included at rank Nos.5 and 6 respectively. But, the name of the petitioner has not been included in the panel for promotion as



B.T. Middle School Headmaster since the 4th and 5th respondents are seniors in the feeder category of Primary School Headmaster. According to the seniority, the 4th and 5th respondents have been promoted as Middle School B.T. Headmaster as per the orders of the 2nd respondent dated 10.10.2009 and both the respondents have joined duty as Middle School B.T. Headmaster on 12.10.2009 and was properly published in the Notice Board of the Office of the 3rd respondent. The petitioner has not made any appeal against such panel published. Further, the contention of the respondents that the 4th and 5th respondents already passed Tamil Second Class language test within two years of promotion. Hence, the contention of the petitioner is baseless.

7.The learned counsel appearing for the 4th and 5th respondents would submit that the 4th and 5th respondents have entered into service as Secondary Grade Teacher with effect from 15.02.1991 and 30.01.1991, respectively and they have been promoted to the post of B.T. Assistant with



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effect from 05.11.2007 and subsequently, promoted to the post of Primary School Headmaster with effect from 23.6.2003 and 25.09.2003, respectively. Therefore, the 4th and 5th respondents are very much senior to the petitioner. According to the seniority, the 4th and 5th respondents have been promoted as Middle School B.T. Headmaster as per the orders of the 2nd respondent dated 10.10.2009 and both of them have joined duty as Middle School B.T. Headmaster on 12.10.2009 and 1.1.2009. Further, it was published in the Notice Board of the Office of the 3rd respondent. The petitioner has not made any appeal against such panel published. Further, the 4th and 5th respondents have already passed Tamil Second Class Language Test within two years of their promotion.

8. Heard the learned counsel appearing on either side and perused the materials available on record.

9. On going through the averments in the petition as well as in the counter and typedset of papers, it is seen that the petitioner was appointed as



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B.T.(Maths) Teacher on 01-07-2004 and his service was regularized on 01.06.2006. The 4th and 5th respondents were appointed as Secondary Grade Teachers on 15-02-1991 and 30-01-1991, respectively and they have been promoted to the post of Primary School Headmaster with effect from 23.06.2003 and 25.09.2003 and subsequently, promoted to the post of B.T. Assistant with effect from 05.11.2007. Both the respondents 4 and 5 belong to the non-tamil category and as per Rule 12(A) of the General Rule of Tamil Nadu State and Subordinate Services, they passed Tamil Second Class Language Test within two years of their promotion. According to the seniority, the 4th and 5th respondents are very much senior to the petitioner. Therefore, the claim of the petitioner is unsustainable.

Accordingly, this Writ petition is dismissed. Consequently, Connected Miscellaneous Petition is closed. No costs.

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Index : Yes/No



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

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