



W.P.(MD)No.618, 920 & 2146 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos.618, 920 & 2146 of 2013

and

M.P.(MD)Nos.2, 2, 1, 2 & 1 of 2013

W.P.(MD)No. 618 of 2013

S.Savadammal

... Petitioner

Vs.

1. The District Elementary Educational Officer,
Dindigul District,
Dindigul.

2. The Assistant Elementary Educational Officer,
Vadamadurai Union,
Madurai District.

...Respondents 1 & 2

3. T. Santhi

...3rd respondent

[The 3rd respondent is added as per order of this Court, dated 31.01.2023]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of ***Writ of Certiorari***, to call for the records pertaining to the impugned order in Na.Ka.No.2926/A-2/2012, dated 07.01.2013 on the file of the 1st respondent and quash the same.



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For Petitioner : Mr.G.Karthik, for
Mr.S.Rajasekar

For R-1 & 2 : Mr.D.Sadiq Raja,
Additional Government Pleader

For R-3 : Mr.M.Saravanan

W.P.(MD)Nos. 920 & 2146 of 2013

T. Santhi

... Petitioner in both
the Writ Petitions

Vs.

1. The Government of Tamil Nadu,
Represented by its Principal Secretary,
Department of School Education,
Fort Saint George, Chennai.
2. The Director of Elementary Education,
E.V.K.Sampath Maligai,
DPI Campus, Chennai.
3. The District Elementary Educational Officer,
Dindigul.
4. The Additional Assistant Elementary Educational Officer,
Vadamadurai,
Dindigul District.
5. S. Savadammal

...Respondents in both
the Writ Petitions



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PRAYER in W.P(MD)No.920 of 2013: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorari*, calling for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No. 2926/A-2/2012, dated 04.01.2013, and quash the same.

PRAYER in W.P(MD)No.2146 of 2013: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorari*, calling for the records pertaining to the impugned G.O. passed by the 1st respondent in G.O.Ms.No.242, Higher Education (P1) Department, dated 18.12.2012 and quash the same.

In both the Writ Petitions

For Petitioner	: Mr.M.Saravanan
For R-1 to 4	: Mr.D.Sadiq Raja, Additional Government Pleader
For R-5	: Mr.G.Karthik, for Mr.S.Rajasekar

COMMON ORDER

The issues involved in the writ petitions are one and the same and hence, all the three Writ Petitions are taken up and this common order is passed.



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2. **W.P.(MD)No.618 of 2013** has been filed by the petitioner/S.Savadammal, to quash the impugned order, dated 07.01.2023.

3. The petitioner was initially appointed as Secondary Grade Teacher on 28.09.1983, subsequently she was promoted as a Primary School Headmaster on 01.07.1998. The petitioner obtained permission to study B.Lit., and the same was granted vide the order of the 2nd respondent in O.Mu.No.4890/A06, dated 16.02.2007 and completed the course in May 2009. Now the petitioner was eligible for promotion as a Graduate Teacher (Tamil). Considering her qualification, the respondents have accommodated the petitioner in Panchayat Union Middle School, Padiyur in Vadamadurai Union, Dindigul District and posted as B.T. Assistant (Tamil). But, the 2nd respondent has passed a demotion order on 30.06.2011 for administrative reasons and posted as Elementary School Headmaster in Panchayat Union Primary School, Padiyur in Vadamadurai Union. Consequently, the scale of pay was also reduced. Subsequently, the petitioner was not allowed to take part in the forthcoming counselling for the post of Middle School HM, hence the petitioner filed W.P.(MD) No. 10506 of 2011 alleging bias and this Court had granted interim order directing to participate in counselling



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process. The petitioner is in Serial No. 1 in the integrated panel for promotion dated 01.01.2011.

4. In the meanwhile a B.T. Assistant (Tamil) post fell vacant in V. Kurunthampatti and the petitioner submitted representation to consider her claim, but the respondents had promoted one R.Enjalin Stella Mary on 01.01.2011, who was junior and placed next to the petitioner in the panel. Hence the petitioner filed W.P.(MD)No.12804 of 2011. In spite of several subsequent vacancies, the petitioner was not posted in any such vacancies citing that the petitioner had not completed the educational qualification as 10+2+3 as prescribed in G.O.Ms.No. 107 dated 18.09.2009. However, the said G.O. was challenged in W.P.(MD)No. 10506 of 2011, 12804/2011, 9879/2012, 3804/2012. In W.P.(MD)No.3804/2012 this Court had held *“after lapsed time of more than 20 years the department cannot be permitted to turn around say that the petitioner should be treated as +2 candidate”*. Thereafter, the petitioner was posted as Middle School Headmaster, in Panchayat Union Middle School, vide order, dated 04.01.2013. The petitioner had immediately joined in the said post in Vadamadurai Union. But on 07.01.2013, the respondents have passed the impugned order, whereby, it is



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stated the promotion order, dated 04.01.2013 is withdrawn. The said order was passed without any notice to the petitioner. Because of the sudden withdrawal of the promotion that too without any notice, the petitioner was depressed and she has approached this Court vide the present writ petition.

5. The respondents have filed counter stating that the Panchayat Union Middle School, Padiyur was upgraded as Higher Secondary School. As per the prevailing rules, the petitioner was reverted as Elementary School Headmaster. As per the Administrative procedure, the junior most teachers in the cadre of Tamil Pandit would be reverted in a particular Union depending upon the situations and the petitioner was reverted based on the administrative procedure. In normal practice, when a vacancy arises in case of graduate teacher in Tamil in a particular Union, the senior most, who was reverted as the Primary School Headmaster, due to non-availability of vacancy, would be given promotion at first. The petitioner's case for the promotion for the Middle school Headmaster was not considered initially for the reason that she does not have the prescribed 10 + 2 + 3 qualification as per the G.O.Ms.No.107 dated 18.09.2009. Even though, the petitioner was placed in the panel of promotion for Middle School



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Headmaster as on 01.01.2011, by following the G.O.Ms.No.107, the petitioner's name has been withheld. Subsequently, implementation of G.O.107 was challenged in several writ petitions, where, this Court held that,

“after lapsed time of more than 20 years the department cannot be permitted to turn around say that the petitioner should be treated as +2 candidate”.

As a result, the 1st respondent after going through the Judgment of this Court in W.P(MD)Nos.10506, 12804 of 20177, 9879 and 3804 of 2012, whereby the petitioner's case was considered favorably and she was promoted as Headmaster, Panchayat Union Middle Schol, Mammaniyur, Vadamadurai Union, Dindigul District on 04.01.2013.

6. In the meantime, the Tamil Nadu Primary School Teacher's Federation, vide their letter, dated 06.01.2013 had requested the respondents to consider the plea that many teachers are affected by the similar order, dated 04.01.2013 issued in favour of the petitioner and prayed to consider their case. Hence, the 1st respondent has passed the impugned order, dated 07.01.2013 issued



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in favour of the petitioner and ordered *status quo* thereby asking the petitioner to retain in her existing post of Headmaster of Panchayat Union Primary School, Padiyur. The impugned order was passed by the 1st respondent only due to welfare of the administration and also to protect the unity among the teachers. Hence, the respondents have prayed to dismiss the Writ petition.

7. The issue of 10+2+3 and foundation and pre-foundation courses and the validity of the G.O.Ms.No.107 was considered by the Hon'ble Division Bench of this Court in ***Mohamed Hasan Refayee Vs. TNPSC and another in W.A.No.213 of 2018, dated 19.07.2019***, in which, the Hon'ble Division Bench has held that the pre-foundation and foundation courses were recognized prior to 18.09.2009 and hence the candidates who have completed pre-foundation and foundation prior to 18.09.2009 are entitled to be considered recruitment and promotion. Also, the old system of SSLC and PUC qualification was also accepted prior to the year of 2009. In the present case, the petitioner has completed old SSLC and thereafter, has completed graduation. Since the petitioner has completed old SSLC that too prior for the issuance of the G.O.Ms.No.107, the petitioner is entitled to be considered for promotion.



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8. Therefore, this Court is of the considered opinion that the impugned order cancelling promotion to the post of Middle School Headmaster is against the Dictum laid down by the Hon'ble Division Bench as stated supra, since the said pattern was recognized prior to the G.O.Ms.No.107. In the present case, the petitioner was granted promotion on 04.01.2013 and the petitioner attained superannuation on 31.05.2013. Therefore, the petitioner is entitled to continue in the promoted post as Middle School HM and consequently entitled to the monetary and service benefits in the post of Middle School Headmaster. The respondents are directed to grant all the terminal and service benefits to the petitioner that is applicable to the post of Middle School Headmaster post, within a period of eight weeks, from the date of receipt of a copy of the order. Accordingly, ***W.P(MD)No.618 of 2013*** is allowed.

9. ***W.P(MD)No.920 of 2013*** is filed by one Santhi, wherein the 5th respondent is Savadammal, who is the writ petitioner in ***W.P(MD)No.618 of 2013***. The brief facts as stated in the affidavit filed in ***W.P(MD)No.920 of 2013*** is



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that the writ petitioner Santhi has joined service as a Secondary Grade Teacher, on 08.07.1988, then on 18.06.1991 she was transferred to the 4th respondent Union, subsequently she acquired B.Lit. (Tamil). On 21.12.2001, she was promoted as Primary School Headmaster. Then on 03.09.2012 was promoted as Middle School Headmaster and working in the same place. The 5th respondent, namely, S.Savadammal has studied old SSLC (11th Standard) and Diploma in Teacher Education and recruited as Secondary Grade Teacher on 28.09.1983, subsequently on 10.07.1998 promoted as Elementary Headmaster, thereafter, she acquired qualification of B.Lit. (Tamil) without studying Higher Secondary and she was promoted as Tamil Pandit on 01.06.2010.

10. The contention of the said Santhi is that the Hon'ble Supreme Court in **2009 (4) SCC 590 – Annamalai University case**, held that the Under Graduate degree without studying +2 is not valid one. Based on the above Judgment, the Government has issued G.O.Ms.No.107, Personnel and Administrative Reforms Department, dated 18.08.2009 and directed the employees, who have studied graduation without studying +2 is not eligible for recruitment and promotion. As the 5th respondent Savadammal did not study +2



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in her school studies, hence she was demoted as Primary School Headmaster. The further contention of the said Santhi is that the said Savadammal did not challenge the demotion order and hence it has attained finality. But the 3rd respondent in order to accommodate the said Savadammal, had passed an order, dated 04.01.2013, demoting the said Santhi as Elementary School Headmaster, without issuing any show cause notice. The 3rd respondent *suo moto* taken up the matter and passed the impugned order demoting the petitioner Santhi without giving any opportunity and hence the said order is challenged in W.P.(MD)No. 920 of 2013.

II. The said Savadammal had challenged her demotion order in W.P(MD)No.618 of 2013 and this Court had allowed the writ petition upholding and confirming the promotion of the said Savadammal as stated supra, with the consequential relief of granting monetary and service benefits for the period from 04.01.2013 to 31.05.2013, the period she had worked as Middle School HM. Since the said Santhi had served as Middle School Headmaster for the period from 03.09.2012 to 04.01.2013, she is entitled to monetary benefits and service benefits for the period 03.09.2012 to 04.01.2013. For the period from 04.01.2013



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to 31.05.2013 (where the Savadammal was serving during this period), since the Santhi is serving in the post of Middle School Headmaster for the period from 03.09.2012, let her continue in the said post and she is entitled to service and monetary benefits.

12. In the Savadammal vacancy the respondents have accommodated one Selvakumari, since this Court has held that the Savadammal is entitled to promotion, the said Selvakumari is not entitled to any benefits from 04.01.2013 to 31.05.2013, but entitled to the said post from 01.06.2013 onwards (after retirement of Savadammal). With the above observations, ***W.P.(MD)No.920 of 2013*** is disposed of.

13. The ***W.P.(MD)No.2146 of 2013*** is filed by Santhi challenging the G.O.Ms.No.242, Higher Education (P1) Department, dated 18.12.2012, wherein the G.O. has held that the 11+2+3 (old SSLC) is equivalent to 10+2+3. The issue of old SSLC, pre-foundation and foundation are settled and hence this Court is dismissing the said writ petition.



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14. Accordingly, ***W.P.(MD)No.618 of 2013*** is allowed. ***W.P.(MD)No.920 of 2013*** is disposed of. ***W.P.(MD)No.2146 of 2013*** is dismissed No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
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31.01.2023

To

1. The Principal Secretary,
Government of Tamil Nadu,
Department of School Education,
Fort Saint George, Chennai.
2. The Director of Elementary Education,
E.V.K.Sampath Maligai,
DPI Campus, Chennai.
3. The District Elementary Educational Officer,
Dindigul.
4. The Additional Assistant Elementary Educational Officer,
Vadamadurai,
Dindigul District.



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S.SRIMATHY, J

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**Common Order made in
W.P.(MD)Nos.618, 920 & 2146 of 2013
(2/2)**

31.01.2023