



W.P.(MD)No.14523 of 2020

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.14523 of 2020

and

W.M.P.(MD)Nos.12181 and 12182 of 2020 and 4453 of 2021

T.Ravikumar,
Graduate Warden,
Government Adi Dravidar Welfare Boys Hostel,
Ambasamudram,
Cheranmahadevi Division,
Tirunelveli District.

... Petitioner

Vs.

1. The Commissioner,
Adi Dravidar Welfare Department,
Chepauk,
Chennai - 600 005.
2. The District Adi Dravidar Welfare Officer,
Tirunelveli District,
Tirunelveli.
3. The Special Tahsildar (ADW),
Cheranmahadevi,
Tirunelveli District.



W.P.(MD)No.14523 of 2020

WEB COPY

4. N.Arulkumar,
Graduate Warden,
Government Adi Dravidar Welfare Boys Hostel,
Palayamkottai,
Tirunelveli District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent in connection with the impugned seniority list issued in Na.Ka.No.A3/8819/2020 dated 05.10.2020 and consequential impugned promotional panel issued by him in A3/8819/2020 dated 08.10.2020 quash the both as illegal and arbitrary and consequently, direct the first respondent to revise the seniority by taking into account the actual date of acquisition of B.Ed., Degree qualification in the post of Graduate Warden / B.T.Assistant.

For Petitioner : Mr.K.Gurunathan

For Respondents : Mr.S.Shaji Bino
Spl. Govt. Pleader for R1 to R3
Mr.S.Louis for R4



W.P.(MD)No.14523 of 2020

WEB COPY

ORDER

This Writ Petition has been filed to call for the records of the first respondent in connection with the impugned seniority list issued in Na.Ka.No.A3/8819/2020 dated 05.10.2020 and the consequential impugned promotional panel issued by him in A3/8819/2020 dated 08.10.2020 quash the both as illegal and arbitrary and consequently, direct the first respondent to revise the seniority of the petitioner by taking into account the actual date of acquisition of B.Ed., Degree qualification in the post of Graduate Warden / B.T.Assistant.

2. The case of the petitioner is that he has joined in the respondent Department as Secondary Grade Teacher on 24.01.1997 and transferred to the second respondent District on 26.05.1998. Subsequently, he was promoted as B.T.Assistant / Grade Warden on 27.02.2009 and now discharging his duty as Graduate Warden in Government ADW Boys Hostel, Cheranmahadevi. The service of the individual in the respondent Department is governed by the Tamil Nadu Adi Dravidar Welfare



W.P.(MD)No.14523 of 2020

Subordinate Service Rules issued in G.O.(Ms)No.405, Home Department, dated 02.02.1963. Moreover, the respondent Department is not only carrying out educational activities but also providing hostel facilities to the students and therefore, they are unique and distinct from the educational rules. The post of B.T.Assistant in the respondent Department is also known as 'Tutor-cum-Warden' and they are posted in Hostel and Graduate Teachers are posted in School and B.Ed., degree is mandatory for posting at Hostel. Till the post of B.T.Assistant, distinct seniority is followed and for further promotion from the said post to the post of High School Headmaster, for which, the state seniority is followed. The qualification for promotion to the post of High School Headmaster is B.T.Assistant (School Assistant) and they should have passed Tamil Nadu Government Office Manual Test and Account Test for Executive Officers. The petitioner has given request to the second respondent to re-prepare the seniority list in the cadre of B.T.Assistant as per G.O.(Ms)No.405, Home Department, dated 02.02.1963. But overlooking this G.O., ineligible persons without B.Ed., qualification were promoted which was challenged in W.P.(MD)No.5475 of 2010 and the



W.P.(MD)No.14523 of 2020

same was allowed and confirmed in W.A.(MD)No.71 of 2014. Based on the order of this Court, the first respondent vide proceedings dated 22.09.2017, directed the second respondent to de-promote the ineligible persons who did not possess the qualification as per the Special Rules and directed to promote the eligible persons. Only thereafter, the petitioner was able to get his due promotion in the post of Graduate Warden after initiation of contempt proceedings only on 22.01.2019. Even though, this Court has upheld the requirement of B.Ed., degree as mandatory one for promotion to the post of Graduate Warden, but overlooking the rules, the fourth respondent was promoted as Graduate Warden. The fourth respondent was qualified with B.Ed., degree only in the month of December 2009, but the petitioner was promoted as Graduate Warden on 26.08.2003 itself and the promotion of the fourth respondent is totally illegal. Hence, the petitioner has given several representations to the second respondent to re-prepare the seniority list, but on the contra has forwarded the name of the fourth respondent for further promotion namely, the High School Headmaster Post. At this juncture, the first respondent has issued the tentative seniority list on



W.P.(MD)No.14523 of 2020

19.09.2020 which was not circulated as per law, but any how the petitioner has given objection on 23.09.2020. The said objection has not at all considered by the first respondent, who has mechanically issued seniority list on 05.10.2020 by including ineligible persons. Further, within three days, he has also issued the promotional panel on 08.10.2020. Aggrieved by the impugned seniority list and promotional panel dated 05.10.2020 and 08.10.2020 respectively, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that admittedly the fourth respondent was promoted as Graduate Warden in the year 2003, the promotion to the post of Graduate Warden, B.Ed., degree is necessary. However without acquiring B.Ed., degree, promotion given to the fourth respondent to the post of Graduate Warden is illegal and subsequently, the inclusion of the name of fourth respondent in the impugned seniority list is bad in law and on the sole ground the name of the fourth respondent is liable to be deleted. Accordingly, he prayed for allowing the Writ Petition.



W.P.(MD)No.14523 of 2020

WEB COPY

4. The learned Special Government Pleader appearing for the respondents would submit that admittedly the impugned seniority panel was prepared to fill up the post of Headmaster from the category of School Assistant-cum-Graduate Warden, the petitioner has not come under the zone of consideration, however he was promoted as Graduate Assistant only in the year 2009. Based on the public service commission seniority and date of birth and entry into service, the senior most persons were included in the impugned panel for the post of Headmaster from the feeder category of School Assistant (B.T.Assistant). Since the petitioner has reached the zone of consideration only in the year 2009, whereas the fourth respondent has reached the zone of consideration in the year 2003 itself the petitioner cannot challenge the seniority panel without independently challenging the promotion awarded to the fourth respondent, the petitioner is entitled to challenge the entire promotion panel is illegal and the same is unsustainable. Hence, he prayed for dismissal of the Writ Petition.



W.P.(MD)No.14523 of 2020

WEB COPY

5. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

6. The grievance of the petitioner is that the fourth respondent without acquiring B.Ed., qualification was promoted as Graduate Warden in the year 2003 and subsequently, his name has also been included in the impugned promotional panel list, thereby, the present Writ Petition has been filed. Admittedly, the petitioner entered into service as Secondary Grade Teacher in the year 1997 and subsequently, he was promoted as Graduate Warden on 27.02.2009, whereas the fourth respondent entered into service prior to the petitioner and he acquired promotion to the post of Graduate Warden in the year 2003 itself, thereby the fourth respondent's name was included in the panel list. Unless the petitioner challenges the promotion of the fourth respondent at the relevant point of time, challenging the consequential panel is unsustainable and further the petitioner has no grievances in respect of other persons whose names were also included in



W.P.(MD)No.14523 of 2020

the panel list. Hence the prayer sought for in the Writ Petition cannot be granted.

7. Accordingly, this Writ Petition is dismissed in the above terms.

No costs. Consequently, connected Miscellaneous Petitions are closed.

31.01.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji

To

1. The Commissioner,
Adi Dravidar Welfare Department,
Chepauk, Chennai - 600 005.
2. The District Adi Dravidar Welfare Officer,
Tirunelveli District,
Tirunelveli.
3. The Special Tahsildar (ADW),
Cheranmahadevi,
Tirunelveli District.



WEB COPY



W.P.(MD)No.14523 of 2020

M.DHANDAPANI,J.

vji

**W.P.(MD)No.14523 of 2020
and
W.M.P.(MD)Nos.12181 and 12182 of 2020 and 4453 of 2021**

31.01.2023