



W.P.(MD)No.14793 of 2020

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 13.02.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**W.P.(MD)No.14793 of 2020**

**and**

**W.M.P.(MD).Nos.12455 and 12464 of 2020**

R.Umavijayalakshmi

... Petitioner

Vs.

- 1.The State of Tamil Nadu,  
represented by it's Secretary,  
Department of School Education,  
Fort. St.George,  
Chennai – 09.
- 2.The Director of School Education,  
DPI Campus,  
College Road,  
Chennai – 06.
- 3.The Chief Educational Officer,  
O/o The chief Educational Office,  
Virudhunagar District,  
Virudhunagar.
- 4.The District Educational Officer,  
O/o The District Educational Office,  
Sivakasi,  
Virudhunagar District.



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5.The secretary,  
Hindu Higher Secondary School,  
Watrap,  
Virudhunagar District.

6.S.Rajasekaran

... Respondents

**PRAYER** : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent in Na.Ka.No.056029/டபிள்யு5/இ3/2020, நாள் - 25.02.2020 and quash the same as illegal and consequently direct the fifth respondent to promote the petitioner for the post of Headmaster with fifth respondent School with consequential benefits within the time stipulated by this Court.

|                |   |                                              |
|----------------|---|----------------------------------------------|
| For Petitioner | : | Mr.T.Thirumurugan                            |
| For R1 to R4   | : | Mr.S.Saji Bino<br>Special Government Pleader |
| For R5         | : | No appearance                                |
| For R6         | : | Mr.K.K.Kannan                                |



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## **ORDER**

This writ petition has been filed challenging the impugned order passed by the second respondent dated 25.02.2020 and to quash the same and consequently direct the fifth respondent to promote the petitioner for the post of Headmaster in the fifth respondent School with consequential benefits.

2. The case of the petitioner is that she was appointed as B.T. Assistant in the fifth respondent School in the year 2004. Subsequently, she was promoted as P.G. Assistant (Zoology) in the year 2017. On 31.05.2017, the former Headmaster of the fifth respondent School viz., Mr.Palanichamy retired from service. At that time, the petitioner is the eligible person to hold the said post of Headmaster. However, the sixth respondent was appointed as Headmaster (in-charge) up to 03.08.2018. Challenging the same, the petitioner has filed a writ petition before this Court in W.P.(MD).No.17367 of 2019. This Court, by order dated 07.08.2019, directed the petitioner to file an appeal before the appellate authority as against the promotion



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granted in favour of the sixth respondent. Subsequently, based on the direction issued by this Court, the petitioner has preferred an appeal before the Director of School Education, the second respondent herein. The second respondent, after hearing the petitioner as well as the private respondent, passed the present impugned order. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that admittedly, at the time of vacancy caused due to the retirement of Mr.Palanichamy, there are three eligible persons available in the School and the petitioner is the senior most person, whereas the fifth respondent School Management obtained a letter from the petitioner as if she did not want to write this eligibility test due to incompleteness of 10 years of service as P.G. Assistant and marked the petitioner as absentee, at the time of interview and selected the sixth respondent as Headmaster of the School. Initially, the proposal for approval forwarded by the fifth respondent School Management was returned by the educational authorities on 22.02.2018 and subsequently on 07.06.2018. Thereafter, based on the experience certificate



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submitted by the fifth respondent School, the promotion was approved in favour of the sixth respondent. He would further submit that though the petitioner has raised several grounds as against the sixth respondent, none of the ground was considered by the second respondent and he simply rejected the petitioner's appeal, which is not sustainable one. Hence, he prayed for quashing the impugned order passed by the second respondent dated 25.02.2020.

4. Per contra, the learned Special Government Pleader appearing for the respondents 1 to 4 would submit that the sixth respondent initially joined in the self financing scheme in the year 1994 and subsequently, he was appointed in the sanctioned vacancy in the year 2009. He has rendered 14 years of service in the very same fifth respondent School Management in the self financing scheme. Considering the past service rendered by the sixth respondent, the fifth respondent School Management forwarded a proposal for approval to the educational authorities, thereby the educational authorities approved the appointment of the sixth respondent. The State Government has also issued the G.O.(Ms.).No.314, School Education (T2)



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Department, dated 12.12.1999, wherein the Director of School Education was authorised to take a past service rendered in the self financing scheme for the purpose of promotion. He would further submit that in respect of promotion, merit, ability and seniority will be considered, if merit and ability is equal. In respect of the educational qualification, the petitioner and the sixth respondent including one Gandhi are possessed necessary qualification. Since the sixth respondent employed in the self financing scheme from 1994 onwards, considering the past service rendered by the sixth respondent, he was promoted, which cannot be interfered with. The learned counsel appearing for the sixth respondent reiterated the submission made by the learned Special Government Pleader appearing for the respondents 1 to 4.

5. Heard the learned counsel for the petitioner, learned Special Government Pleader appearing for the respondents 1 to 4 and the learned counsel appearing for the sixth respondent.

6. The facts in the present case are not in dispute. Admittedly, the



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petitioner was appointed as B.T.Assistant in the fifth respondent School in the year 2004. Subsequently, she was promoted as P.G.Assistant in the year 2009 and there was a vacancy in the year 2017 and the fifth respondent School Management claims that the petitioner did not want to participate in the selection process. To that extent, the fifth respondent School Management has produced a letter allegedly signed by the petitioner before this Court. A perusal of the letter dated 29.11.20217 clearly reveals that the petitioner did not want to write this eligibility test due to incompleteness of 10 years of service as P.G. Assistant and she did not want to compete with Mrs.Gandhi P.G. (Eng.), who is senior to the petitioner. The School Management Attendance Register also placed before this Court and on perusal of the same, it is seen that the petitioner was absent at the time of interview on 10.12.2017. Thereafter, the promotion was granted in favour of the sixth respondent on 11.12.2017. The said post was approved on 03.08.2018. However, the petitioner has filed the writ petition after lapse of one year objecting the promotion granted in favour of the sixth respondent. Prior to that, the petitioner did not raise the issue with regard to the letter obtained by the fifth respondent School Management from the petitioner



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before this Court or the educational authority.

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7. For the first time, the petitioner has agitated the issue in the year 2019, at the time of filing the writ petition and subsequently the appeal filed before the appellate authority on 25.09.2019 and except this appeal and the writ petition, no complaint was made by the petitioner immediately after the promotion of the sixth respondent. Further, the State Government has issued the G.O.(Ms.)No.314, dated 12.12.1999, which makes it clear that the Director of School Education have power to consider the past service rendered by the person in the self financing scheme and in order to substantiate their claim, the educational authority have produced the Attendance Register from the year 1994 to 2009. Hence, the prayer sought for by the petitioner cannot be granted. Accordingly, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

**13.02.2023**

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To

- 1.The Secretary,  
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- 3.The Chief Educational Officer,  
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**M.DHANDAPANI,J.**

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