



W.P.(MD).No.16523 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.16523 of 2023

Mala

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Chief Secretary to Government,
Department of School Education,
Secretariat,
Chennai.
- 2.The Director,
Office of the Director of School Education,
College Road,
DPI Campus,
Chennai-600 006.
- 3.The Joint Director (Personnel),
Office of the Director of School Education,
College Road,
DPI Campus,
Chennai-600 006.
- 4.The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.
- 5.The Chief Educational Officer,
Ariyalur District,
Ariyalur.



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6.The District Educational Officer,
(Private Schools),
District Educational Office,
Tirunelveli District.

7.The District Educational Officer,
(Elementary),
District Educational Office,
Ariyalur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to relieve the petitioner pursuant to the order of promotion passed by the third respondent vide his proceedings in ந.க.எண்.059204/அ3/இ1/2022 dated 20.06.2023 so as to permit the petitioner join in the promoted place as Personal Assistant to District Educational Officer as the office of the DEO, (Elementary Education) Ariyalur.

For Petitioner : Mr.S.Mohamed Suhail
for Mr.Ajmal Khan
Senior Counsel

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

The present writ petition has been filed seeking direction to the respondents to relieve the petitioner pursuant to the order of promotion passed by the third respondent vide his proceedings in ந.க.எண்.059204/அ3/இ1/2022



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dated 20.06.2023 so as to permit the petitioner join in the promoted place as Personal Assistant to District Educational Officer as the office of the DEO, (Elementary Education) Ariyalur.

2. The petitioner was appointed as Junior Assistant on 12.11.1986 in the office of the Deputy Inspector of Schools at Valliyoor. Further, various promotions were given to the petitioner. Finally, she was promoted as Superintendent in the office of the District Educational Office, Private Schools at Tirunelveli District. The petitioners further avenue of promotion is to the post of Personal Assistant to the District Educational Officer. The crucial date for the promotion of the petitioner was 15.03.2022, for which the panel was prepared and approved on 28.09.2022.

3. Accordingly, the petitioner's name was included in the approved panel. Pursuant to the same, the counseling was also conducted on 28.09.2022 and the petitioner also participated in the said counseling. However, due to the non availability of vacancy, the petitioner was not given promotion. Subsequently, the vacancy arose and acting upon the approved panel dated 28.09.2022, the third respondent vide his proceedings in ந.க.எண்.059204/அ3/இ1/2022 dated



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20.06.2023 promoted the petitioner as Personal Assistant to the District Educational Officer.

4. In furtherance to the same, the respondents ought to have relieved the petitioner, facilitating her to join in the promoted place. However, there was no action on the part of the respondents to relieve the petitioner. It was orally informed that a charge sheet, which was filed against the petitioner in Special S.C.Nos.1 to 7, 10 and 11 and she was not relieved. The crucial date for inclusion in the panel promotion was as on 15.03.2022. However, the date of charge sheet is 08.03.2023. So it is needless to say that on the particular crucial date, no charge sheet was pending.

5. The learned Senior Counsel appearing for the petitioner drew the attention of this Court to the provision Schedule XI part A (II) (5) r/w Section 7(1) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 with respect to filing of charge sheet which is extracted as follows:

“(5). Mere filing of cases in Courts by the appropriate investigating authority against a member service shall not be a bar for inclusion of his name in the approved list. If specific charges are framed or charge sheet has been filed in the criminal case on the



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crucial date his name shall not be considered for inclusion in the approved list.”

6. Heard the learned Senior Counsel for the petitioner and the learned Government Advocate for the respondents and carefully perused the materials available on record.

7. This Court is inclined to direct the sixth respondent to relieve the petitioner with a consequential direction to the seventh respondent to allow the petitioner to join in the promoted post, in the light of the provisions discussed above by this Court.

8. With the above said observation, this Writ Petition stands disposed of. There shall be no order as to costs.

11.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
BTR



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L.VICTORIA GOWRI, J.

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