



W.P.(MD)Nos.2180 and 2181 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)Nos.2180 and 2181 of 2018

W.P.(MD)No.2180 of 2018

R.Senthilkumar

Vs.

... Petitioner

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

2.The Additional Assistant Elementary Educational Officer,
Vedachandur,
Dindigul District.

3.T.Neelaveni

(The third respondent is impleaded as per the order of
this Court in W.M.P.(MD).No.19079 of 2021,
dated 03.02.2023).

... Respondents



W.P.(MD)Nos.2180 and 2181 of 2018

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, to call for the records relating to the order of the 1st respondent herein in Na.Ka.No. 1170/A2/A2/2017 dated 22.05.2017 in so far as not giving notional promotion and pay fixation to the petitioner as BT Assistant (Maths) w.e.f. 29.07.2013 and quash the same and consequently direct the respondents herein to give notional promotion, notional pay in the post of BT Assistant (Maths) w.e.f 29.07.2013 the date on which the petitioner is eligible to promote as BT Assistant (Maths) with all other attended benefits including counting the BT Assistant service for fixation of seniority.

For Petitioner : Mr.T.Pon Ramkumar
For R1 & R2 : Mr.S.Saji Bino
Special Government Pleader
For R3 : Mr.T.Antony Arul Raj

W.P.(MD)No.2181 of 2018

S.Jacqueline Mary

... Petitioner

Vs.

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



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2.The Additional Assistant Elementary Educational Officer,
Vedachandur,
Dindigul District.

3.R.Kavitha

(The third respondent is impleaded as per the order of
this Court in W.M.P.(MD).No.19079 of 2021,
dated 03.02.2023).

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, to call for the records relating to the order of the 1st respondent herein in Na.Ka.No.3122/A2/2013 dated 21.11.2017 in so far as not giving notional promotion and pay fixation to the petitioner as BT Assistant (English) w.e.f. 11.10.2013 and quash the same and consequently direct the respondents herein to give notional promotion, notional pay in the post of BT Assistant (English) w.e.f 11.10.2013 the date on which the petitioner is eligible to promote as BT Assistant (English) with all other attended benefits including counting the BT Assistant service for fixation of seniority.

For Petitioner	:	Mr.T.Pon Ramkumar
For R1 & R2	:	Mr.S.Saji Bino
		Special Government Pleader
For R3	:	Mr.T.Antony Arul Raj



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COMMON ORDER

Since the issue involved in these writ petitions is one and the same, they have been taken up together and disposed of by this common order.

2. These writ petitions have been filed challenging the orders of the first respondent dated 22.05.2017 and 21.11.2017 and to quash the same and consequently direct the respondents to give notional promotion and notional pay in the post of BT Assistant with effect from the date on which the petitioners are eligible to be promoted as BT Assistant with all other attendant benefits.

3. The case of the petitioners is that they were appointed as Secondary Grade Teacher in the Panchayat Union Primary School, in the year 2002 and 2007 respectively. Thereafter, they were transferred to various schools and at present, they are working as Secondary Grade Teacher in Panchayat Union Elementary School, Vedachandur Union,



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Dindigul District.
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4. It is the further case of the petitioners that before the introduction of G.O.(Ms.).No.239, dated 22.09.2007, if any B.T.Assistant post is vacant in the Union, the same has to be filled up by adopting the procedure of 50:50 basis ie., 50% of vacancies has to be filled up by way of promotion and remaining 50% of post has to be filled up by way of adopting the method of direct recruitment or transfer. The said procedure was abolished by the Government under G.O.(Ms.).No.239, dated 22.09.2007. However, contrary to the said G.O., the private respondents were transferred to the Panchayat Union Middle School, Thottanampatti, Vedachandur Union, Dindigul District, depriving the rights of the petitioners from getting B.T.Assistant post. That order was challenged before this Court in W.P. (MD).Nos.15181 of 2013 and 161 of 2014 and the said writ petitions were allowed in favour of the petitioners. Against the order of the learned single Judge, the respondents herein preferred writ appeals in W.A.(MD).Nos.1345 of 2016 and 1344 of 2016 and the same were dismissed. Thereafter, the petitioners filed the contempt petitions in Cont.P.(MD).Nos.229 and 230 of



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2016 before this Court. Pursuant to which, the petitioners were promoted as B.T.Assistant on 22.05.2017 and 21.11.2017 respectively and paid all the monetary benefits. However, the grievance of the petitioners is that notional promotion was not granted to the petitioners from 2013, since they are eligible to be promoted to the post of B.T.Assistant in the year 2013. Challenging the same, the present writ petitions have been filed.

5. The learned counsel appearing for the petitioners would submit that as per G.O.(Ms.)No.239, dated 22.09.2007, if eligible candidate is working in the same union, he has to be promoted as B.T.Assistant. However, without considering the petitioners for promotion to the post of B.T.Assistant, the private respondents were transferred to Vedasandur Union to fill up the B.T.Assistant post, which clearly depriving the rights of the petitioners from getting promotion at the relevant point of time. Hence, he prayed for appropriate orders.

6. The learned Special Government Pleader appearing for the respondents 1 and 2 would submit that admittedly, an error was crept by



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transferring the private respondents working as B.T.Assistant in some other Union. In the petitioners Union, two posts are vacant and the same were filled up by way of transfer. However, the said transfer order was subsequently set aside by this Court, in order to comply with the order of this Court and the petitioners were given promotion in the year 2017. Since the petitioners not worked as B.T.Assistant from 2013 onwards, claiming the notional benefit from the year 2013 is not sustainable one. If any representation is made for granting notional benefit without any back wages or without any monetary benefits, that representation will be considered in the manner known to law.

7. Heard the learned counsel for the petitioner, the learned Special Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent.

8. Admittedly, the petitioners were given promotion in the year 2017. However, the grievance of the petitioners is that they are entitled for notional promotion from the year 2013. Further, in view of the fair



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submission made by the learned Special Government Pleader appearing for the respondents 1 and 3, this Court grants liberty to the petitioners to make a fresh representation to the respondents claiming notional benefits without any back wages or without any monetary benefits, within a period of two weeks from the date of receipt of a copy of this order. If such representation is filed, the respondents are directed to consider the same and pass appropriate orders, within a period of six weeks thereafter.

9. With the above directions, these Writ Petitions are disposed of.

No costs.

03.02.2023

akv

To

- 1.The District Elementary Educational Officer,
Dindigul,
Dindigul District.
- 2.The Additional Assistant Elementary Educational Officer,
Vedachandur,
Dindigul District.



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M.DHANDAPANI,J.

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