



W.P(MD)No.23181 of 2

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.23181 of 2022

and

W.M.P(MD)Nos.17272 & 17274 of 2022

P.Sangayarajan

... Petitioner

Vs.

1.The Joint Director (Personal),
Commissioner of School Education Department,
DPI Campus, College Road,
Chennai-600 006.

2.The Chief Educational Officer,
Thanjavur,
Thanjavur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the first respondent in Na.Ka.No.59205/A3/E1/2022, dated 28.09.2022 and quash the same in so far as it deletes the name of the petitioner and consequently include the name of the petitioner name in the said panel list for the post of Regular Superintendent



and consequently post him as Regular Superintendent with all consequential monetary and service benefits.

For Petitioner : Mr.VR.Shanmuganathan

For Respondents : Mr.V.Om Prakash
Government Advocate

ORDER

The present writ petition has been filed by an Upgraded Superintendent challenging the revised seniority list prepared by the first respondent herein for the appointment by transfer from the post of Upgraded Superintendent to the post of Regular Superintendent.

2. The petitioner was appointed as a Junior Assistant on 21.08.1996 and his services were regularised with effect from 18.09.2007. Thereafter, he was promoted and appointed as Upgraded Superintendent on 27.09.2017. According to the learned Counsel appearing for the petitioner, all the Upgraded Superintendents would be appointed as Regular Superintendents after a period of 4 or 5 years by way of transfer of service. For the said transfer of service, a seniority list is being prepared and published every year.



3. In the present case, the seniority list was prepared and published on 21.09.2022, in which the name of the petitioner was ranked as serial No.100 with a remark that DVAC proceedings are pending as against the writ petitioner. Thereafter, the petitioner has given a representation on 22.09.2022 informing that no DVAC proceedings are pending as against him but only criminal proceedings are pending as against him in Crime No.14 of 2016 before DCB, Thanjavur. A revised seniority list was published on 28.09.2022 repeating the same remarks to the effect that DVAC proceedings are pending as against the writ petitioner. The said revised proceedings of the first respondent are under challenge in the present writ petition.

4. According to the learned Counsel appearing for the writ petitioner, as per G.O(Ms)No.111, School Education (R2) Department, dated 22.04.2010, the post of Upgraded Superintendents and Regular Superintendents are equal in cadre and they are receiving the same scale of pay. Therefore, the appointment of an Upgraded Superintendent to the post of Regular Superintendent is not by way of promotion but it is only by transfer of service. Therefore, pendency of criminal cases would not be a bar for considering the name of the petitioner for being appointed as a Regular Superintendent.



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5. Per contra, the learned Government Advocate appearing for the respondents relying upon the counter had contended that the post of Regular Superintendent is a promotional post and what was prepared by the authorities is a panel and hence, the name of the petitioner could not be considered in view of the pendency of criminal case as against the writ petitioner.

6. I have carefully considered the submissions made on either side and perused the materials available on record.

7. The only issue that arises for consideration is whether the appointment of an Upgraded Superintendent as a Regular Superintendent would amount to promotion or it is a mere appointment by transfer of service.

8. A perusal of G.O(Ms)No.111, dated 22.04.2010 clearly reveals that the post of Upgraded Superintendent is equivalent to the post of Regular Superintendent and they carry the same scale of pay. In view of the said fact, 384 Upgraded Superintendent post have been converted to Regular Superintendent post. The service rules which are applicable to the writ



petitioner also do not point out that the post of Regular Superintendent is a promotional post from the post of Upgraded Superintendent. Therefore, the appointment of an Upgraded Superintendent as a Regular Superintendent could never be considered to be a promotion but only appointment by transfer of service. Any pendency of criminal proceedings would be a bar, only in case where the post for which the petitioner aspires is a promotional post. In the present case, admittedly, the authorities have not prepared a panel with the crucial date. Therefore, it is clear that the petitioner aspires only to another equivalent post which is being offered on the basis of seniority.

9. In such view of the matter, the remarks in the impugned seniority list, dated 28.09.2022 to the effect that due to pendency of criminal proceedings, the petitioner's name is excluded is hereby set aside. The respondent authorities are directed to consider the name of the writ petitioner for being appointed as Regular Superintendent by way of transfer of service as and when vacancy arises and promote the writ petitioner with effect from the date on which the petitioner's juniors have been promoted with all attendant benefits.



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10. This writ petition stands allowed to the extent as stated above. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

14.12.2023

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

To

1.The Joint Director (Personal),
Commissioner of School Education Department,
DPI Campus, College Road,
Chennai-600 006.

2.The Chief Educational Officer,
Thanjavur,
Thanjavur District.



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R.VIJAYAKUMAR, J.

BTR

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