



W.P.(MD)No.108 of 2016

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 108 of 2016

N.R.Vasantharaj

... Petitioner

Vs.

1. The District Educational Officer,
Madurai Educational District,
Madurai – 2.

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

3. The Director of School Education,
College Road, Chennai – 600 006.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, calling for the records relating to the impugned proceedings of the 3rd respondent in O.Mu.No.43536/A1/E5/2014, dated 30.10.2015, denying to bring the petitioner's name (Senior than already promoted his juniors) above the names of his juniors who were promoted to the higher rank of the petitioner and quash the same and consequently direct the 3rd respondent to place the petitioner's name in the list prepared for promoting his juniors and thereby reckon and give promotion.



W.P.(MD)No.108 of 2016

WEB COPY

For Petitioner : Mr.E.Murugan

For Respondents : Mr.S.Kameswaran,
Government Advocate

ORDER

This writ petition is filed challenging the impugned order, dated 30.10.2015 and consequently direct the 3rd respondent to place the petitioner in the list prepared for promoting the juniors and grant promotion. In the impugned order the respondents denied to bring the petitioner's name above the names of the juniors, who were promoted to the higher rank.

2. The petitioner was born on 07.04.1934 and he joined BT Teacher on 25.07.1960. Subsequently, he was appointed as Headmaster on 20.02.1969 and retired from service on 30.04.1992.

3. The contention of the petitioner is, he is entitled to be promoted as District Educational Officer, however, the respondents have denied the same. The contention of the respondents is that the petitioner is eligible to be promoted as District Educational Officer, if the petitioner would have three years of service



W.P.(MD)No.108 of 2016

WEB COPY

in the said post, since the petitioner would attain superannuation without completing three years and therefore, the respondents have declined the promotion to the petitioner.

4. The said plea of the respondents was refuted by the petitioner and submitted that the respondents have granted promotion to one K.S.Hariharan, even though, he is not having three years period to serve in the said promoted post. For which the petitioner is relying on a communication, dated 17.04.2013, which was obtained by the petitioner under the Right to Information Act. The respondents have stated that the said K.S.Hariharan date of birth is 04.09.1932 and he was retired from service on 30.09.1990, however, he was granted promotion as District Educational Officer on 12.12.1988. Even though, the said K.S.Hariharan would serve only for 18 months and he cannot service for three years in the said post.

5. Furthermore, the petitioner has also relied on the promotion granted to one Veerichetty. The petitioner has obtained the details under the Right to Information Act, which was granted through, proceedings, dated 17.06.2013,



W.P.(MD)No.108 of 2016

WEB COPY

wherein the said Veerichetty was born on 16.10.1936 and he was retired from service on 31.10.1994, however he was granted promotion to the post of District Educational Officer, on 21.10.1994. Subsequently, based on the revised seniority list, the said Veerichetty was also granted notional promotion from 19.01.1994. Therefore, the petitioner relied on those two promotions and seeking promotion notionally, with consequential benefits.

6. The respondents have filed counter stating that the petitioner has filed this writ petition after lapse of 20 years. All these years, the petitioner had not objected to the said promotions and has not claimed any promotions for himself. Hence, the petition is hit by laches and the petitioner is not entitled to. Moreover, the Veerichetty was granted promotion based on some Court orders, after his date of birth was rectified. Therefore, the writ petitioner cannot compare with the said Veerichetty. The three years period of service is one of the conditions for granting promotion to the post of District Educational Officer. Subsequently, the said condition was deleted through G.O.Ms.No.1, dated 02.01.1996. Since, the petitioner was retired prior to this period i.e., 1994 itself, the amended provisions would not be applicable to the petitioner.



W.P.(MD)No.108 of 2016

WEB COPY

7. After hearing the rival contention this Court had given its anxious consideration. The respondents submitted that the said Verrichetty was granted promotion since he had contested before Court regarding his date of birth. This plea cannot be accepted. As far as the K.S.Hariharan is concerned, there was no litigation before any Court. But the respondents have granted promotion to the said K.S.Hariharan. The said K.S.Hariharan retired from service on 30.09.1990, but granted promotion as District Educational Officer on 12.12.1988. The amendment came into effect on G.O.Ms.No.1, dated 02.01.1996.

8. As far as the plea of delay and laches is concerned this Court rejects the said plea, since the respondents have granted promotion to the said K.S.Hariharan, prior to the amendment even though the said K.S.Hariharan has only 18 months service. Hence this Court is inclined to entertain the writ petition since the respondents have adopted discriminatory method to grant promotion.

9. By taking into consideration of all these facts, this Court is inclined to grant partial relief to the petitioner. The petitioner is entitled to notional promotion as District Educational Officer, however, the petitioner is not



W.P.(MD)No.108 of 2016

WEB COPY

entitled to any monetary benefits for the said service, but the effect shall be granted in the pensionary benefits.

10. With these directions, the writ petition is partly allowed. No

Costs.

Index : Yes / No
Internet : Yes
ksa

23.02.2023



WEB COPY



W.P.(MD)No.108 of 2016

To

1. The District Educational Officer,
Madurai Educational District,
Madurai – 2.
2. The Chief Educational Officer,
Madurai District,
Madurai.
3. The Director of School Education,
College Road,
Chennai – 600 006.



WEB COPY



W.P.(MD)No.108 of 2016

S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No.108 of 2016**

23.02.2023