



W.P.(MD)No.28700 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.28700 of 2022

and

W.M.P(MD)Nos.22693 and 22694 of 2022

and

W.M.P(MD)No.610 of 2023

G.Kanmani

... Petitioner

Vs.

1.The Director of Elementary Education,
DPI Campus, Chennai – 6.

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

3.The District Educational Officer(Elementary),
District Elementary Educational Office,
Pattukottai,
Thanjavur District.

4.The Block Educational Officer,
Pattukottai, Thanjavur District.

5.Mrs.Yasotha,
Graduate Teacher,
Municipal Middle School,
Jeyaalayam,Pattukottai,
Thanjavur District.

... Respondents



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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 impugned order of the third respondent, dated 01.12.2022 in Na.ka.No.603/A2/2022 and quash the same as illegal and consequently, to give the post of Graduate Teacher to the petitioner with continuity of service from 01.12.2022 as Graduate Teacher along with corresponding attendant benefits of Graduate Teacher along with seniority at par excellence with her immediate senior.

For Petitioner	: Mr.K.K.Ramakrishnan for Mr.B.Vikram Veerasamy
For R-1 to R-4	: Mr.J.Ashok, Additional Government Pleader
For R-5	: Mr.S.Deenadayalan

ORDER

This writ petition has been filed to quash the impugned order of the third respondent, dated 01.12.2022 in Na.ka.No.603/A2/2022, as illegal and consequently, to confer the post of Graduate Teacher with continuity of service from 01.12.2022 along with corresponding attendant benefits along with seniority on par with her immediate senior.



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2. The case of the petitioner is that she was appointed as Secondary Grade Teacher in the Municipal Primary School, Palayam on 10.12.1990 and thereafter, she completed various degrees in various subjects. Subsequently, she was promoted as Headmistress of Municipal Primary School, Latchathoppu and thereafter, she was promoted as “Graduate Teacher” in Pattukottai Municipal Middle School, Pattukottai and she has been working there in the said post. Her services were regularized as Graduate Teacher with effect from 08.08.2016 vide communication of the third respondent, dated 13.08.2020. While so, when she was on leave, on 02.12.2022, it was informed that she was demoted from the post of Graduate Teacher to the post of Headmistress, Municipal Elementary School and she was directed to work as Headmistress, Municipal Primary School, Sivakollai. On 05.12.2022, when she enquired about the same, the impugned demotion order came to be passed by the third respondent. It is her case that the impugned order is passed without affording any opportunity. Hence, the petitioner has filed this writ petition with the aforesaid prayer.



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3. The learned counsel appearing for the petitioner would submit that initially, the petitioner was appointed as Secondary Grade Teacher and thereafter, promoted as Headmistress of a Primary School and subsequently, promoted as Graduate Teacher. While so, one Thamilselvi, who got promotion as Block Educational Officer from the post of Middle School Headmistress, relinquished her promotion and therefore, she was reverted back and posted as Headmistress of Municipal Middle School, Pattukottai. Consequently, one Uma Rani, who is the junior-most in the post of Middle School Headmistress demoted to the place of the petitioner as Graduate Teacher, which is not sustainable. The learned counsel would further submit that in view of the relinquishment of Thamilselvi, the junior-most person has to be disturbed, but not based on the subject seniority and the seniority list prepared in the present case, is contrary to the Government Orders and Service Rules. Further, either the petitioner or the said Uma Rani has not relinquished their right and therefore, the impugned demotion order passed by the third respondent is liable to be quashed and hence, prayed for interference.



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4. The learned Additional Government Pleader appearing for the respondents 1 to 4, would submit that one Thamilselvi, who is the senior-most person, was promoted to the post of Block Educational Officer from the feeder category of Middle School Headmaster. However, she relinquished her right and opted for reversion to the parent unit as Middle School Headmaster and the same was accepted by the Director of Elementary Education, vide order dated 23.11.2022. Therefore, one R.Umarani, who is the junior-most in the post of Middle School Headmaster, was reverted back and G.Thamilselvi was posted in her place, in turn, Umarani was reverted back to the place of the petitioner. As the petitioner is the junior-most in the post of B.T.Assistant(History), she was reverted to the post of Primary School Headmaster as per the guidelines issued in G.O.Ms.No.106 Education Department dated 27.06.2003 and G.O.Ms.No.144, dated 04.07.2008 and therefore, the impugned order is perfectly in order, which does not require interference at the hands of this Court and hence, prayed for dismissal of this writ petition.



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5. The learned counsel for the 5th respondent would submit that the 5th respondent has not relinquished her right. Though she is the junior-most, on the basis of subject seniority, the reversion made by the respondents is *per se* illegal.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. Admittedly, the petitioner was appointed as a Secondary Grade Teacher in the year 1990 and thereafter, promoted as Headmistress of a Primary School and thereafter, promoted as Graduate Teacher. Her services were regularized as Graduate Teacher with effect from 08.08.2016, as such she has been working in the said cadre from 08.08.2016 onwards. However, one Thamilselvi, who, who was promoted as Block Educational Officer relinquished her right and in order to accommodate her as Middle School Headmistress, one Umarani, who was promoted as Middle School Headmistress, was reverted back to the post of Graduate Teacher, in which cadre, the petitioner was working.



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However, the fact remains that the post of Graduate Teacher and Primary School Headmaster is not equivalent. Further, the pay of Graduate Teacher is more than the pay of Primary School Headmaster.

8. It is also pertinent to note that if at all a person has to be reverted back to the post of Primary School Headmaster, junior-most person in the post of Graduate Teacher has to be reverted back, instead, the third respondent vide the impugned order, reverted the petitioner, who is not the junior-most person.

9. Even as per the seniority list published in the cadre of Graduate Assistant, the petitioner is the senior-most person and her seniority is S.No.6, whereas the 5th respondent is at S.No.10. However, in the present case, the present demotion order was passed based on subject seniority. Subject seniority is unknown to service law and if any transfer is done, it shall be from the junior-most person and not based on the subject seniority and further it is also admitted fact neither Umarani nor the private respondent relinquished their right. When that being the



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position, without giving an opportunity of being heard, consequent upon one person relinquished his/her right, passing the demotion order by the 3rd respondent is per se illegal and the entire proceedings adopted by the respondents is unknown to service law. For all these reasons, the impugned order is liable to be interfered with.

10. Accordingly, this writ petition is allowed and the impugned order of the third respondent, dated 01.12.2022, is set aside. No Costs. Consequently, connected miscellaneous petitions are closed.

19.01.2023

NCC:Yes/No
Index:Yes/No
pm/RR



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M.DHANDAPANI,J.

pm/RR

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