



W.P.(MD).No.27874 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.27874 of 2023

P.Kesavapandian

... Petitioner

Vs.

1. The Headmaster,
Government Higher Secondary School,
Kariapatti,
Virudhunagar District.

2. The Chief Educational Officer,
Collectorate Campus,
Virudhunagar.

3. The Joint Director,
Higher Secondary School Education,
Director of School Education,
DPI Compound, College Road,
Chennai – 6.

4. The Director,
Higher Secondary School Education,
Director of School Education,
DPI Complex,
College Road,
Chennai – 6.

... Respondents



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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 promote the petitioner to post of PG Assistant in Physics by including the petitioner's name in the Seniority List as on 01.01.2005 prepared by the respondents in the light of the final order passed by this Court in W.P(MD) No.4697 of 2006, dated 28.01.2011 within a time as stipulated by this Court.

For Petitioner : Mr.P.Gunasekaran
For Respondents : Mr.V.Om Prakash
Government Advocate

ORDER

The present writ petition has been filed by a P.G Assistant seeking notional promotion from the date on which his juniors were promoted.

2. According to the learned counsel appearing for the writ petitioner, the petitioner was appointed as B.T.Assistant (Physics) on 18.01.2002. His probation was declared with effect from 18.02.2004, by an order dated 23.11.2005. However, the juniors of the writ petitioner were promoted as P.G. Assistant with effect from 01.01.2005. The name of the writ petitioner got



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excluded on the ground that the probation was not declared on 01.01.2005.

Hence, the petitioner has filed the present writ petition seeking promotion from 01.01.2005, the date on which, his juniors were promoted.

3. Per contra, the learned Government Advocate appearing for the respondents pointed out that the order declaring the probation of the writ petitioner was issued only on 23.11.2005. Therefore, on the crucial date, namely, on 01.01.2005, the name of the writ petitioner could not be included for want of declaration of probation. Hence, he prayed for dismissal of the writ petition.

4. I have carefully considered the submissions made by the learned counsel on either side and perused the materials on record.

5. There is no dispute that the petitioner was appointed on 18.01.2002 as B.T.Assistant Teacher (Physics). A perusal of the order passed by the second respondent on 23.11.2005 indicates that the probation of the petitioner has been declared with effect from 18.02.2004. Therefore, it is clear that there is some delay in declaring the probation of the writ petitioner. There is no



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fault on the part of the writ petitioner, in view of the extended probation period.

6. In the meantime, on the crucial date i.e., on 01.01.2005, the juniors of the writ petitioner have been promoted as P.G.Assistant. The name of the writ petitioner got excluded only due to the fact that the probation was not declared on 01.01.2005.

7. Considering the above said facts, the third respondent herein is directed to notionally promote the writ petitioner with effect from 01.01.2005 on par with his juniors with all attendant benefits. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

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

20.12.2023

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