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W.P.No.19729 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.19729 of 2015

E.Venkatesan

...Petitioner

Vs.

1.The State of Tamil Nadu,
Rep.by its Secretary to Government,
Adi Dravidar & Tribal Welfare Department,
Secretariat, Fort St. George
Chennai – 9.

2.The Director of Adi Dravidar Welfare,
Chepauk, Chennai – 5.

3.The District of Adi Dravidar
& Tribal Welfare Officer,
Thiruannamalai District,
Thiruvannamalai.

...Respondents

Prayer:Writ Petition 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 proceedings issued by the 2nd respondent in Na.Ka.No.34046/2014 dated 31.03.2015, quash the same and consequently direct the respondents 1 & 2 to consider the petitioner for promotion to High School Headmaster by treating the Graduate Physical Education Teacher working in Adi Dravidar Welfare Department on par with Physical Director



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Grade II working in School Education Department, within a time frame to be fixed by this Court.

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For Petitioner : Mr.S.Nedunchezhiyan
For Respondents : Mr.Vadivelu Deenadayalan
Additional Government Pleader

ORDER

This writ petition has been filed questioning the proceedings bearing Na.Ka.No.34046/2014 dated 31.03.2015 whereby the claim of the petitioner for being promoted to the post of High School Headmaster was negated by the second respondent on the ground that there is no rule for considering the case of the petitioner for promotion to the post of High School Headmaster. The petitioner, while questioning the said proceedings dated 31.03.2015, also sought for consequential directions to respondents 1 and 2 to consider the case of the petitioner for promotion to the High School Headmaster by treating the Graduate Physical Education Teacher working in Adi Dravidar Welfare Department on par with Physical Director Grade – II working in School Education Department.

2. The main ground, on which, the petitioner is seeking the relief in



this writ petition is that there are no promotional avenues for the petitioner from the post of Graduate Physical Education Teacher in Adi Dravidar Welfare Department like the Physical Director Grade II working in School Education Department and because of the same, the petitioner is continuing in the same post, in which he was appointed for more than 20 years.

3. In view of the same, the petitioner, by placing reliance on the decisions of the Hon'ble Apex Court in the case of ***Dr.Ms.O.Z.Hussain Vs. Union Of India*** [reported in 1990 (Supplement) SCC 688] and in the case of ***State of Tripura and Ors. Vs. KK Roy*** [reported in (2004) 9 SCC 65], contended that he is entitled to be treated on par with the Physical Director Grade II working in the School Education Department.

4. The second respondent had filed a counter-affidavit contending that the petitioner is working in a cadre equal to Secondary Grade Teacher, and in case the petitioner applies, with requisite qualification, for the post of BT Assistant, his case can be considered for the post of BT Assistant and then only, his case can be considered for promotion to the post of High School Headmaster.



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5. The relevant paragraphs in the counter-affidavit read as under:-

“3. With reference to the averments made in the paragraph No.5 of the affidavit, it is submitted that the Physical Education Directors Grade – II working in the School Education Department in the scale of pay of 9300-34800+G.P.4800 are in BT Assistant Categories. BT.Assistant is the feeding Category of High School Head Master. But the petitioner working as a Physical Education Teacher in the Scale of Pay of 5200-20200+GP.2800 is only in the category of Secondary Grade Assistant. In the Tamil Nadu Adi Dravidar Welfare Subordinate Service Rules, the methods of recruitment for the different categories of Grades are clearly mentioned as follows:

***Categories
of Grades
(1)***

*Category
I:-*

*Headmasters of High
Schools:*

*Category
II:-*

*School
Assistants:*

***Method of
Recruitment
(2)***

Class-I

*Promotion
from School
Assistants*

*1.Direct
Recruitment
or*

*2.Promotion
or
transfer from
Tutor-Cum-
Wardens*



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**Categories
of Grades
(1)**

**Method of
Recruitment
(2)**

or
Tutor-Cum-
Matrons with
Degree in
teaching:
or
Recruitment
by transfer
from the
Tamil Nadu
Educational
Subordinate
Service
or
from any
other service.

So being the Secondary Grade Assistant, the petitioner has no right to claim for the promotion of High School Master which is meant only for School Assistants.

4. The averments made in the paragraph No.6 of the affidavit are denied. It is submitted that the petitioner having the qualification of a degree with B.PEd., is working in the post of Physical Education Teacher, a secondary grade Teacher category, as many individuals having a post graduate degree with B.Ed., are working as secondary grade teachers. Being the teacher of a secondary grade cadre, it is not acceptable to consider the petitioner's pray only for the reason that he has the qualification for the post of Physical Education Directors Grade – II, a B.T.teacher cadre.”

6. In the light of the above, the sole contention of the petitioner, that



there are no promotional avenues for the petitioner for being promoted and that he has been continuing in the same post for more than 20 years cannot be accepted. In case the petitioner acquires the requisite qualification and satisfies the criteria for considering for promotion, his case can be considered for promotion to the post of BT Assistant and then to the post of High School Headmaster. Hence, the petitioner can only claim promotion in terms of the Rules, but not de hors or in deviation of the Rules. The impugned order came to be issued only on the ground that there is no rule for consideration of the case of the petitioner for promotion to the post of High School Headmaster. In light of the above, it is evident that it is not a case where the petitioner has no promotional avenue.

7. In the light of the above, this Court does not find any infirmity in the impugned order passed by the second respondent. Hence, the writ petition fails and the same is accordingly dismissed. However, in view of the categorical statements made in the counter-affidavit as extracted above, it is open for the petitioner to make a claim for promotion in terms of statement made in the counter-affidavit and in case any such claim is made, the same shall be considered by the second respondent in accordance with law. No



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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
To

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2.The Director of Adi Dravidar Welfare,
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3.The District of Adi Dravidar &
Tribal Welfare Officer,
Thiruannamalai District,
Thiruvannamalai.

NST

MUMMINENI SUDHEER KUMAR,J

NST



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