



W.A.No.9261 of 2010 etc batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

RESERVED ON
01.12.2023

PRONOUNCED ON
31.01. 2024

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.Nos.9261, 9270 & 9272 of 2010

M.P.Nos.2 & 3 of 2010 in all W.Ps.

G.Patrica ... Petitioner in W.P.No.9261 of 2010

G.Murali ... Petitioner in W.P.No.9270 of 2010

E.Amutha ... Petitioner in W.P.No.9271 of 2010

Vs

- 1.The Teachers Recruitment Board,
E.V.K. Sampath Maligai, 7th Floor,
College Road, Chennai – 6.
- 2.The Director of Elementary Education,
College Road, Chennai – 6.
- 3.The District Elementary Educational Officer,
Cuddalore.
- 4.The Assistant Elementary
Educational Officer,
Anna Gramam – 607 112,
Cuddalore District.
- 5.The Additional Assistant Elementary
Educational Officer,
Anna Gramam – 607 112,



W.A.No.9261 of 2010 etc batch

Cuddalore District.

6.V.Srinivasan

7.V.Murali

... Respondents in all W.Ps.

COMMON PRAYER:- Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of pertaining to the seniority List of Secondary Grade Teacher s on 01.01.2009 published on 09.04.2009 by the 5th respondent and consequential promotion order of the respondents 6 and 7 made by the 3rd respondent in his proceedings Na.Ka.No.1226/B5/09 dated 14.12.2009 and 16.12.2009 respectively and quash the same and direct the respondents to prepare a Seniority List of Secondary Grade Teacher by taking into consideration of Rank assigned by the Teachers Recruitment Board, which was sent at the time of appointment and consequently promote the petitioner as a Head Master of Panchayat Union Primary School with all service, monetary benefits and and pass such further order.

In all W.Ps.

For Petitioners : Mr.Vignesh Rai
for Mr.Muthappan

For R1 : Mr.C.Kathiravan
Standing Counsel (TRB)

For RR2 to 5 : Mr.A.M.Ayyadurai
Government Advocate

For R6 : Mr.P.Rajendran

For R7 : Served (no appearance)



W.A.No.9261 of 2010 etc batch

WEB COPY

ORDER

These Writ Petitions are filed challenging the Seniority List of Secondary Grade Teacher as on 01.01.2009 published on 09.04.2009 and to quash the consequential promotion order of the respondents 6 and 7 made by the third respondent in his proceedings Na.Ka.No.1226/B5/09 dated 14.12.2009 and 16.12.2009 respectively and direct the respondents to prepare a Seniority List of Secondary Grade Teacher by taking into consideration the Rank assigned by the Teachers Recruitment Board, and consequently promote the petitioners as Head Master of Panchayat Union Primary School with all service and monetary benefits.

2. Since the *lis* raised in these Writ Petitions are one and the same all were heard together and disposed of by way of a common judgment.

3. Mr.Vigensh Raj, learned counsel for Mr.M.Muthappan, learned counsel appearing for the petitioners, Mr.C.Kathiravan, learned Standing Counsel appearing for 1st respondent, Mr.A.M.Ayyadurai, learned Government Advocate appearing for the respondents 2 to 5 and Mr.P.Rajendran, learned counsel appearing for 6th respondent. Despite notice



W.A.No.9261 of 2010 etc batch

being served, there was no appearance on behalf of the 7th respondent either in person or through his counsel before this Court.

4. Mr.Vignesh Raj, learned counsel appearing for the petitioners would submit that all the petitioners were selected and appointed as Secondary Grade Teachers through Tamil Nadu Teacher Recruitment Board during 02.08.1995, 01.08.1995 and 31.07.1995 respectively and all were appointed in Panchayat Union Primary Schools in Tuticorin and Villupuram districts. He would contend that the Teachers Recruitment Board had also assigned ranks according to their merits to the candidates selected for the said post.

5. He would further submit that as per Rule 35(a) of the Tamil Nadu State and Sub-Ordinate Service Rules the seniority of a person in a service, class or category or grade shall be determined by the Rank obtained by them in the list of approved candidates drawn up by the TNPSC or other appointing authority. The petitioners has been appointed through the Teachers Recruitment Board and the same shall be the basis for fixing the seniority for the candidates selected during the relevant period. He would



W.A.No.9261 of 2010 etc batch

further submit that in the year 1995 the state wide selection was made by the Teachers Recruitment Board and all of the candidates were not able to be accommodated in their native District Panchayat Unions.

6. He would further submit that in order to facilitate the candidates those who have appointed other than their native District Panchayat Union, the Government issued G.O.Ms.No.388, Education, Science and Technology Department dated 19.06.1996, that while effecting the transfer they may be allowed to transfer from one Unit to another Unit and their seniority shall be only based on the rank assigned by the Teachers Recruitment Board and the said Government Order was clarified by the Director of Elementary Education in Na.Ka. No.9771/Ed1/2000 dated 10.03.2000, that the 1995 Recruited Teachers are entitled to seek transfer from one Panchayat Union to another Panchayat Union without losing their seniority, but this is also permissible for only one time and if any of the appointees seek transfer for the second time they shall be placed below the approved Probationer of the transferred Union.



W.A.No.9261 of 2010 etc batch

7. He would further submit that the petitioners has opted for transfer from their concerned Panchayat Union, to Anna Gramam Union, Panruti, Cuddalore District and all the three petitioners have joined in the said Union on 12.07.1996, 05.07.1996 and 18.07.1996 respectively. The seniority of the petitioners has been fixed on the basis of the Rank assigned by the Teachers Recruitment Board. He would further submit that the Rank assigned by the Teachers Recruitment Board for the petitioners are 2691, 3127 and 2936. he would further contend that the respondents had drawn and published the seniority correctly on the basis of the direction issued by the Director of Elementary Education.

8. He would further submit that the second respondent/Director of Elementary Education has issued a clarification in his proceedings Na.Ka. No.16170/D3/2007 dated 11.06.2007 stating that the Secondary Grade Teachers recruited through Teachers Recruitment Board in the year 1995 shall not be entitled for Transfer from one Panchayat Union to another Union without losing their seniority. He would contend that many teachers



W.A.No.9261 of 2010 etc batch

were affected by these proceedings and these proceedings were challenged before this Hon'ble Court and the same was allowed.

9. He would further submit that the second respondent has issued instructions to draw Seniority list on the basis of the Rank assigned by the Teachers Recruitment Board, but in most of the Districts office of the Director, Assistant and Additional Elementary Educational Officers do not have the rank list assigned by the Teachers Recruitment Board. He would submit that most of the teachers recruited through TRB in the year 1995, and as per [G.O.Ms.No388](#), dated 19.06.1996 and the Director's Proceedings dated 10.03.2000, have opted for transfer to the respective choice of their Panchayat Union without losing their Seniority.

10. He would further contend that the respondents 3 to 5 had drawn the seniority list without even knowing the Rank number secured, they had drawn the Seniority List only on the basis of the Register number till 2005. He would submit that the 4th respondent after obtaining the rank list from the Teachers Recruitment Board, had prepared the Seniority list as on



W.A.No.9261 of 2010 etc batch

01.01.2006 and the same continued till 01.01.2009, it was published on 05.01.2009 and confirmed on 28.01.2009.

11. He would submit that the 7th respondent who had appointed in his native Panchayat Union, made representations claiming that he should have being placed above the persons who were transferred from other Blocks, for which the respondents 3 to 5 had revised the seniority list. He would further contend that the 3rd and 4th respondent, had drawn the revised Seniority List as on 01.01.2009 and published the same as on 09.04.2009 and as per the revised seniority list the petitioners seniority has gone below from the earlier seniority list and their ranks had also changed. Against which the petitioners and Teachers Association raised objections. But the respondents had drawn the Panel from the wrong Seniority list for promotion to the post of Head Master and this had given promotion to the Juniors of the petitioners. Aggrieved against the seniority list drawn by the respondents the petitioners had filed these Writ Petitions.

12. Mr.A.M.Ayyadurai, learned Government Advocate would submit



W.A.No.9261 of 2010 etc batch

that the seniority list had been prepared as per the prevailing Rules and Regulations that is applicable. He would also contend that the Teachers Recruitment Board had prepared a list of seniority as on 01.01.2006 and the same had been followed even in the impugned seniority list. He would further submit that the respondents 6 and 7 are seniors to the petitioners in respective unit and therefore, they are fully eligible to be placed in the seniority list agade of the petitioners.

13. I have considered the rival submissions made by the learned counsels appearing on either side and perused the materials available on record.

14. In the impugned seniority list, respondents 6 and 7 have been shown in Serial No.8 and 9. As against their names, in the remarks, seniority number as assigned by the 1st respondent namely the Teachers Recruitment Board had been exhibited. Similarly, the petitioners names have been shown at Serial No.14, 15, and 17 and their ranks have also been shown in the remarks column. The names included in Serial Nos.8 to 18 were all appointed pursuant to the examination conducted by the Teachers



W.A.No.9261 of 2010 etc batch

Recruitment Board in the year 1995 and Column Nos.4 and 5 gives details of the same. From a perusal of the aforesaid columns, it could be seen that the persons in Serial Nos.8 to 18 have been placed in seniority on the basis of their date of joining in the service. Even though, they have been assigned the ranks by the 1st respondent/ Teachers Recruitment Board, this procedure followed in the seniority list at least in respect of the people shown in Serial Nos.8 to 18 is contrary to the order in G.O.Ms.No388 Education, Science and Technology Department dated 19.06.1996. The said Government order had directed the seniority of the persons appointed to be made on the ranking that they had obtained in the examination conducted by the Teachers Recruitment Board.

15. In such view of the matter, I am of the view that the seniority list at least in respect of the persons in Serial Nos.8 to 18 had to be re-visited by the respondents . Even though, the petitioners have sought for a larger relief namely to revisit the entire seniority list impugned in this writ petition, I am of the view that the fixation of seniority in respect of individuals in Serial Nos.8 to 18 who were appointed in the year 1995 alone



W.A.No.9261 of 2010 etc batch

need to be revisited.

WEB COPY

16. In fine, this Writ Petition is disposed of with a direction to the 5th respondent herein who is the author of the order impugned herein to re-draw the seniority of individuals at Serial Nos.8 to 18 on the basis of the Teachers Recruitment Board ranking and if in such re-fixation the petitioners are found to be seniors to the respondents 6 and 7, then they shall be notionally granted promotion on the date when the respondents 6 and 7 have been granted promotion and their pay also be notionally fixed on and from that date. However, they will be entitled to draw the monetary benefits on the said notional promotion from the date of this order. The 5th respondent is directed to carry out this exercise within a period of twelve (12) weeks from the date of receipt of a copy of this order. However, there shall be no order as to cost. Consequently, connected miscellaneous petition is closed.

31.01.2024

gba

Index : Yes/No

11/14



W.A.No.9261 of 2010 etc batch

Speaking order : Yes/No
Neutral Citations : Yes/No

WEB COPY

To

- 1.The Teachers Recruitment Board,
E.V.K. Sampath Maligai, 7th Floor,
College Road, Chennai – 6.
- 2.The Director of Elementary Education,
College Road, Chennai – 6.
- 3.The District Elementary Educational Officer,
Cuddalore.
- 4.The Assistant Elementary
Educational Officer,
Anna Gramam – 607 112,
Cuddalore District.
- 5.The Additional Assistant Elementary

12/14



W.A.No.9261 of 2010 etc batch

Educational Officer,
Anna Gramam – 607 112,
Cuddalore District.

K.KUMARESH BABU,J.

Gba

A Pre-delivery order made in



WEB COPY



W.A.No.9261 of 2010 etc batch

W.P.Nos.9261, 9270 & 9270 of 2010

31.01.2024