



W.P.No.29077 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.29077 of 2011

and

M.P.No.1 of 2011

A.Mangaiyarkkarasi

Vs

...Petitioner

1.The Joint Director of
School Education
(Higher Secondary) and
Appellate Authority,
DPI Campus,
College Road,
Chennai-600 006.

2.The District Educational Officer,
Thirupattur,
Vellore District – 635 601.

3.Hindu Higher Secondary
School,
Represented by its Secretary,
Ambur,
Vellore District.

4.P.Sivaji Rao,
Head Master,
Hindu Higher Secondary
School,



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Ambur,
Vellore District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 13.11.2009 passed by the 3rd respondent granting promotion to the 4th respondent to the post of Head Master, the order dated 23.06.2010 in Na.Ka.No.7278/Aa3/2010 passed by the 2nd respondent granting approval for the promotion given to the 4th respondent and the order dated 30.05.2011 in Mu.Mu.No.61781/W5/E3/2010 passed by the 1st respondent rejecting her appeal, quash the same and consequently, direct the 3rd respondent to grant her promotion to the post of Head Master from 13.11.2009, the date on which the 4th respondent was given promotion, with all monetary and consequential benefits, award costs.

For Petitioner : Mr.V.Ajoy Khose
For Respondents : Mr.P.Gurunathan (for R1 & R2)
No appearance (for R3)

ORDER

The Writ Petition is filed calling for the records pertaining to the order dated 13.11.2009 passed by the 3rd respondent granting promotion to the 4th respondent to the post of Head Master, the order dated 23.06.2010 in Na.Ka.No.7278/Aa3/2010 passed by the 2nd respondent granting approval for the promotion given to the 4th respondent and the



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order dated 30.05.2011 in Mu.Mu.No.61781/W5/E3/2010 passed by the 1st respondent rejecting her appeal, quash the same and consequently, direct the 3rd respondent to grant her promotion to the post of Head Master from 13.11.2009, the date on which the 4th respondent was given promotion, with all monetary and consequential benefits, award costs.

2.Learned counsel for the petitioner submitted that 3rd respondent school is a private school within the meaning of Section 2(7) of the Tamilnadu recognized Private Schools (Regulation) Act 1973. Petitioner joined the services of the 3rd respondent as PG Assistant in English on 23.02.1981. In the seniority list of PG Assistants in the 3rd respondent School, petitioner stood in the Serial No.2, next to the earlier Head Master Mr.N.Karunanidhi. Mr.Karunanidhi retired from service on 30.09.2009. On his retirement, position of Head Master has to be filled by promotion from the eligible PG Assistants based on the merit and ability. 3rd respondent School issued a Circular calling for applications from the PG Assistants for the promotion to the post of Head Master. Petitioner and 4th respondent submitted applications. The interview was fixed on 28.09.2009. Petitioner, 4th respondent and Mr.G.Suersh had participated



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in the interview. 3rd respondent conducted both oral and written test to assess the merit and ability of the participants. Then, without declaring the results of the interviews; marks obtained in the oral and written test, 3rd respondent straight away appointed the 4th respondent as Head Master on 29.09.2009. Against this, petitioner made series of representations to the 3rd respondent with a request to cancel the appointment of the 4th respondent. There was no reply from 2nd and 3rd respondent. 2nd respondent granted approval for the appointment of 4th respondent, despite objection of the petitioner. Petitioner preferred an Appeal to the 1st respondent on 05.07.2010. Since Appeal was not disposed, petitioner filed Writ Petition in W.P.No.2208 of 2011. This Court directed the 1st respondent to dispose the Appeal within a period of 8 weeks. Thereafter, Appeal was disposed confirming the appointment of the 4th respondent.

2.1. Petitioner preferred a Review Petition to the Government of Tamil Nadu. Since no orders was passed on the Review Petition, she filed Writ Petition in W.P.No.18460 of 2011. That Writ Petition was dismissed on the ground that the revision under Section 45 of the Tamil Nadu Recognized Private Schools Act, 1973 is available only against the orders



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passed under Section 11 or under Section 41 of the Act and revision petition against the order of rejection of the Appeal was not maintainable. Therefore, liberty was given to the petitioner to challenge the order passed by the 1st respondent. Though the petitioner preferred Appeal to the 1st respondent to set aside the promotion given to the 4th respondent by 3rd respondent, 1st respondent passed orders only referring to Rule 15. Therefore, the Appeal preferred by the petitioner to the 1st respondent shall be taken or construed that his Appeal under Rule 15(4) has been rejected by the 1st respondent. This Court has held that, no Appeal is provided against the order passed under Rule 15(4). Therefore, petitioner was left with no other option, but to file this Writ Petition.

2.2.It is further submitted by the learned counsel for the petitioner that during the pendency of the Writ Petition both the petitioner and 4th respondent retired from service, on attaining the age of superannuation.

3.In response, learned counsel for the 1st and 2nd respondent submitted, on the basis of the letter from District Educational Officer to the Government Advocate, Chennai that the petitioner had retired from



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service on attaining the age of superannuation on 31.07.2012 and she was paid all the retirement benefits. 4th respondent had also retired from service on attaining the age of superannuation on 31.05.2013. 3rd respondent had appointed the 4th respondent as Head Master. In view of the retirement of both petitioner and 4th respondent, nothing survives in this Writ Petition.

4.Considered the rival submissions and perused the records.

4.1.This Writ Petition is filed primarily challenging the appointment of the 4th respondent as Head Master of the 3rd respondent School ahead of the petitioner. It is the claim of the petitioner that, petitioner is the better suited than the 4th respondent for this post. However, she was unjustifiably denied the post of Head Master.

4.2.It is seen from the narration of facts as above, petitioner availed all the appeal remedies before the concerned authorities. The Authorities had considered the materials and case of the parties and rejected her request. Now that petitioner had retired in the year 2012 and 4th



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respondent in the year 2013. At this point of time, if any relief is given, it would not result in giving any benefits to the petitioner. Therefore, this Court is of the view that, this Writ Petition has become infructuous due to passage of time and nothing survives in this Writ Petition.

5. Accordingly, this Writ Petition is dismissed as infructuous. Parties shall bear their own costs. Consequently, the connected Miscellaneous Petition is closed.

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Index: Yes/No

Speaking order/Non-speaking order

gd

To

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(Higher Secondary) and
Appellate Authority,
DPI Campus,
College Road, Chennai-600 006.

G.CHANDRASEKHARAN, J.

gd

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