



WEB COPY



WP.No.5699 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2024

CORAM

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

WP.No.5699 of 2020

and

WMP.Nos.6641, 20093 of 2020 & 10 of 2021

B.Leema Pauline

... Petitioner

Vs.

1. The Director of Adi Dravidar Welfare,
Chepauk,
Chennai-600 005.
2. The District Adi Dravidar and Tribal Welfare Officer,
Villupuram District, Villupuram.
3. The Headmaster,
Government Adi Dravidar Welfare Higher Secondary School,
Kondamur, Vanur Taluk,
Villupuram District.
4. S.Vijaya Samundeeswari

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the 2nd Respondent in Na.Ka.M.3/14369/2018 dated 17.02.2020 and to quash the same and consequently directing the Respondents 1 to 3 to restore the seniority of the



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Petitioner in the post of B.T. Assistant (Tamil) over and above the 4th Respondent with all consequential and other attendant benefits, within a time frame to be fixed by this Honorable Court.

For Petitioner : Mr.J.Jayamalan

For Respondents : Mr.C.Jayaprakash
Government Advocate for R1 to R3
Mr.V.Sivalingam
for M/s.C.S.Associates for R4

ORDER

The instant writ petition has been filed challenging the revision of seniority ordered in favour of the 4th respondent, keeping her above the petitioner.

2. The learned counsel for the petitioner took this Court to various orders of this Court, and also the date of initial appointment and Service Rules. However, the fact remains the impugned order has been passed in pursuance of the order in WP.No.31734 of 2019 dated 12.11.2019 passed by this Court. Wherein the petitioner's representation was directed to be considered in accordance with law.



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3. From the perusal of the order of the learned Single Judge, it appears that, the 4th respondent and the petitioner's seniority was 134 and 137 respectively till 2012. However, subsequently, the petitioner was placed above the 4th respondent. Therefore, the 4th respondent gave representation and prayed this Court to direct the Authority concerned to consider the same. It is pertinent to mention here that, as rightly contended by the learned counsel for the petitioner, from 2013-2022, the petitioner was placed above the 4th respondent, and even in the year 2022, the petitioner was placed above the 4th respondent. As matter of fact, below the petitioner and above the 4th respondent, there were 3 other persons in the order of seniority, namely (i) C.Clara Mary, (ii) V.Jothi and (iii) D.Kalaiselvi.

4. However, it is an admitted fact that the Authority concerned, while considering the representation in furtherance to the order of WP.No.31734 of 2019 dated 12.11.2019, did not issue notice and sought any explanation either from those who placed above the 4th respondent, or from the petitioner. It is the primordial duty of the authority concerned to issue notice to the proposed affected person, in case if the seniority is altered in any case. The settled seniority reinforces some vested right upon such individual.



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Accordingly, such vested right cannot be altered without hearing them. Here, such exercise has not been undertaken. In such view of the matter, this Court found a patent error and violation of principle of natural justice in passing the impugned order. Therefore, the impugned order dated 17.02.2020 is liable to be set aside as the impugned order had been passed before hearing the other seniors to the 4th respondent.

5. In the result, this writ petition is allowed and the impugned order dated 17.02.2020 is set aside, and the 2nd respondent is directed to reconsider the representation of the 4th respondent, after calling for an objection from the petitioner and from those who are senior to 4th respondent and junior to the petitioner. The 2nd respondent shall complete this exercise, within a period of three (3) months from the date of receipt of a copy of this order. No costs. Consequently, connected WMPs are also closed.

22.10.2024

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Index : Yes /No

Speaking order/Non Speaking Order

Neutral Citation : Yes/No



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