



W.P.No.34973 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.34973 of 2012

G. Udayasuriyan (died)

1. U. Santhi

2. U.Udayachandran

3. U.Pavithra

4. U.Karthika

5. U.Amudhan

... Petitioners

(P1 to P5 impleaded vide order dated 24.01.2024

made in WMP.No.1553/2024

in W.P.No.34973/2012 by JSNPJ)

Vs.

1. State of Tamil Nadu

Secretary to Government

School Education Department

Secretariat,

Chennai 600 009.

2. The Director of School Education

College Road,

Chennai 600 006.

3. The Joint Director of School Education

College Road,

Chennai 600 006.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus directing the respondents to promote the petitioner to the post of Assistant by including his name in 1995 panel on par with junior K.Muthukumarasamy with consequential seniority and other monetary benefits including further promotion to the post of upgraded Superintendent based retrospectively with all attendant benefits, including arrears of salary.

For Petitioner : Mr.S.Nedunchezhiyan

For Respondents : Mrs.P.Vijaya Devi

ORDER

The petitioner has filed this petition seeking to direct the respondents to promote the petitioner to the post of Assistant by including his name in 1995 panel on par with junior K.Muthukumarasamy with consequential seniority and other monetary benefits including further promotion to the post of upgraded Superintendent based retrospectively with all attendant benefits, including arrears of salary.

2. The case of the petitioner is that the petitioner viz., G.Udayasuriyan since then deceased had participated in Group IV Examination conducted by



TNPSC in the year 1985-1986 and he was selected to the post of Junior Assistant. Thereafter, based on the TNPSC ranking he was given an order of appointment to the post of Junior Assistant and allotted to Education Department and accordingly he was appointed as Junior Assistant in Uthangarai Government Boys Higher Secondary School as per the proceedings of District Educational Officer, Dharmapuri dated 27.02.1990 and he joined the post of 02.03.1990 fore noon.

3. It is further averred that thereafter the petitioner's service has been regularised from the date of appointment as per the proceedings of District Educational Officer, Dharmapuri dated 05.10.1990. The District Educational Officer, Dharmapuri instead of passing orders for declaration of probation, forwarded a proposal to the State Government seeking relaxation of relevant rules for passing appropriate orders. The fact remains that another similarly placed person by name V.Arumugam appointed along with the petitioner as per the order dated 27.02.1990 who was also sent for training in the same batch along with the petitioner and completed the training on 25.02.1994 was issued with an order of declaration of probation by the concerned District Educational Officer, immediately. Whereas in respect of the petitioner's case,



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the District Educational Officer, Dharmapuri forwarded a proposal to the Government and the same was kept pending for three years. Thereafter, the Government has issued orders, however in view of the delay in passing an order of declaration of probation his name was not included in the panel for promotion to the post of Assistant in the year 1995 based on his seniority. However, many juniors have been included in the Panel and they got promotion to the post of Assistant overlooking the petitioner and he was given promotion to the post of Assistant only after the orders of Government issued in G.O.Ms.No.3D No.6 dated 14.03.1997 for satisfactory declaration of his probation and on that basis he was given promotion to the post of Assistant only on 05.07.1999.

4. Though the petitioner was entitled for promotion to the post of Assistant as early as in the year 1995 based on his TNPSC ranking and seniority, he was not given promotion for want of declaration of probation and he was given promotion only in the year 1999 subsequent to the orders of Government for declaration of probation in spite of the fact that as per the Government order the probation was declared with effect from 01.03.1992 i.e., on completion of two years of service from the date of appointment.



Therefore, having regard to the fact that his services have been regularised from the date of appointment and further the probation was also declared on completion of two years with effect from 01.03.1992 the petitioner ought to have been given promotion to the post of Assistant retrospectively on par with his junior. The administrative delay in deputing him for Bhavani Sagar Training and the administrative delay in passing the orders by the State Government for declaration of probation cannot be put against the petitioner in delay of his promotion particularly when the services have been relaxed from the date of appointment and the probation was also declared with retrospective effect. In this regard, the petitioner has made several representations to the respondents seeking to promote him to the post of Assistant on par with his junior who was promoted as Assistant as early as on 20.10.1995 and further promoted to the post of upgraded Superintendent on 12.04.2010. However, the respondents have not chosen to pass any orders on his representation immediately. With regard to status of his representation it was informed by the 1st respondent that there was a proposal received from the Director of School Education for granting retrospective promotion on par with junior but however, the concerned file has been returned to the Director calling for similar orders passed in other Departments or any Government



order passed on that basis or to quote any other precedent, as per the proceedings dated 13.09.2010. Therefore, it is amply clear that the petitioner's request for retrospective promotion on par with his junior has not been considered and further the proposal itself was returned for want of similar orders already passed in other Departments.

5. Having regard to the fact that the petitioner was appointed through TNPSC and got his service regularised from the date of appointment and completed probation within the time, he should be given the benefit of promotion on par with his junior. The administrative delay in passing the order of declaration of probation cannot be cited as reason for denying his promotional opportunity based on his seniority. Another person by name V.Arumugam appointed along with the petitioner whose services have been regularised on 12.03.1990, who has also completed Bhavani Sagar training only on 25.02.1994 along with the petitioner was given promotion to the post of Assistant based on his seniority whereas in respect of his case, the promotion has been postponed from the year 1995 to 1999 and in the mean time number of juniors have been given promotion overlooking the petitioner. Hence the petitioner is entitled for promotion on par with his junior by



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including his name in 1995 panel. Since the representation made by the petitioner have not been properly considered nor any orders being passed in legal perspective, the petitioner has come forward with the writ petition.

6. Though very many grounds have been raised in this Writ Petition, learned counsel for the petitioner submitted that, it would suffice, if this Court issues direction to the 1st respondent to consider the petitioner's representation dated 28.11.2012 and pass appropriate orders on merits, within a particular time frame to be fixed by this Court.

7. The learned Government Advocate appearing for the respondents submitted that they have no objection for the said order being passed by this Court.

8. Heard the learned counsel on either side and perused the materials available on record.

9. Taking into consideration the factual aspects of the matter, this Court without going into the merits of the case, directs the 1st respondent to consider



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the petitioner's representation dated 28.11.2012 and pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order and a copy of the order passed by the 1st and 2nd respondents shall be sent to the petitioner by registered post.

10. This Writ Petition is disposed of with the above observation and direction. No costs.

24.01.2024

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Index : Yes/No

Speaking Order : Yes/No

To:

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J. SATHYA NARAYANA PRASAD, J.

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