



W.P.No.2351 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.04.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.2351 of 2018

and

W.M.P.No.2887 of 2018

1.Tmt.A.Kalyani

2.A.Kannathasan

... Petitioner

Vs.

1. The Director of School Education,
Chennai – 600 006.

2. The District Educational Officer,
Chennai (Central),
Chennai – 600 015.

3. The Secretary,
Kumararajah Muthiah Higher Secondary School,
No.4, Crescent Avenue Road,
Gandhi Nagar, Adayar,
Chennai – 600 020.

4. Tmt.N.Baby Uma

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 2nd respondent in his proceedings Na.Ka.No.5102/Aa4/2017 dated 21.12.2017 and the consequential seniority list published by the 3rd respondent in their proceedings No.Nil dated 29.12.2017, in so far as the petitioners are concerned and quash the same and direct the respondents to confer all the consequential benefits to the petitioners.

For Petitioner : Mr.V.Sivalingam
for Mr.C.S.Associates

For R1 & R2 : Mr.K.H.Ravikumar,
Government Advocate

For R3 : Mr.S.Senthilnathan

For R4 : Mr.V.R.Rajasekaran

ORDER

The petitioners herein are appointed as B.T. Assistant, Tamil by direct



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recruitment on 25.03.2009 in the respondent no.3 School, whereas the respondent no.4 herein was appointed as a Secondary Grade Teacher on 26.08.2002. Aggrieved by the appointment of the petitioners herein as B.T. Assistant, Tamil by way of direct recruitment, the respondent no.4 questioned the said appointment by filing a Writ Petition before this Court in W.P.No.23180 of 2009. While the said Writ Petition was pending, this Court having taken note of the fact that there was another vacancy that arose on 01.11.2008, disposed of the said Writ Petition, directing the respondents therein to consider the claim of the respondent no.4 for promotion to the post of Tamil Pandit in the vacancy that arose on 01.11.2008. Accordingly, the respondents have considered the claim of the respondent no.4 in respect of the said vacancy that arose on 01.11.2008. However, one Tmt.I.Jayanthi was promoted in the said vacancy. Aggrieved by the said appointment of Tmt.I.Jayanthi in the vacancy that arose on 01.11.2008, the respondent no.4 approached this Court once again by filing W.P.No.23344 of 2010. The said Writ Petition was disposed of by this Court directing the Joint Director of School Education to consider the representation submitted by the petitioner against the appointment of the said Tmt.I.Jayanthi. Considering the



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representation submitted by the petitioner, the appointment of Tmt.I.Jayanthi was approved by the Joint Director through proceedings dated 07.07.2011.

Aggrieved by the same, the respondent no.4 herein once again approached this Court by filing W.P.No.29597 of 2014 and according to the learned counsel for the respondent no.4, the said Writ Petition is still pending. Thus, the vacancy that arose on 01.11.2008 was filled up by the said Tmt.I.Jayanthi and the said appointment was the subject matter of the Writ Petition in W.P.No.29597 of 2014, which is pending before this Court. Thereafter, yet another vacancy that arose due to retirement of one of the Tamil Pandit, the petitioner was appointed to the said post on 01.01.2011. But the said appointment was not approved by the respondent no.2 herein and therefore, the respondent no.4 once again approached this Court by filing W.P.No.29455 of 2012, which is also pending for consideration before this Court. Thereafter, one more vacancy of Tamil Pandit arose on 02.01.2006 due to retirement of one Thavamani and accordingly, the respondent no.4 herein was promoted to the said post on 02.01.2016 and the said promotion was approved by the District Educational Officer, Chennai vide Proceedings in Na.Ka.No.938/AA1/2016 dated 12.04.2016 subject to



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outcome of the Writ Petitions that are pending before this Court. At that stage, the respondent no.4 approached this Court by filing yet another Writ Petition in W.P.No.15976 of 2017 seeking consideration of the representation dated 14.04.2017 submitted by the petitioner to fix her seniority in the post of Tamil Pandit with effect from 01.11.2008. The said Writ Petition was disposed of by a learned Single Judge of this Court by order dated 27.06.2017, directing the respondents 2 and 3 to consider the said representation and pass appropriate orders thereon in accordance with law.

2. It is pursuant to the said order passed by this Court, the respondent no.2 herein passed the impugned order granting the benefit of seniority to the petitioner with effect from 01.11.2008. As already noted above, both the petitioners herein were appointed as B.T.Assistant, Tamil on 23.03.2009 and in case if the respondents no.4 herein is to be granted seniority with effect from 01.11.2008, both the petitioners herein, who were already working as B.T.Assistant, Tamil from 23.03.2009 would become juniors to the respondent no.4 herein. So also, there are several other B.T.Assistant, Tamil,



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who were also appointed after the petitioners were appointed and before the promotion of the respondent no.4 to the post of B.T.Assistant, Tamil with effect from 02.01.2016. None of the persons, who are already working as B.T.Assistant, Tamil were afforded any opportunity before giving the benefit of seniority to the respondent no.4 with effect from 01.11.2008. Further, in the order passed by the respondent no.3, absolutely there is no reason furnished as to how and on what basis the respondent no.4 herein was granted the benefit of seniority with effect from 01.11.2008 though her promotion to the post of B.T.Assistant, Tamil is only with effect from 02.01.2016. Once it is confirmed that the promotion of the respondent no.4 is only to the post of B.T.Assistant, Tamil is only with effect from 02.01.2016 and no notional promotion is awarded in her favour, the question of granting the benefit of seniority from retrospective date is totally illegal.

3. As already noted above, the claim of the petitioner for appointment to the vacancy of B.T.Assistant, Tamil, which arose on 01.11.2008 was though directed to be considered, one Tmt.I.Jayanthi was appointed in the said vacancy and her appointment was also approved though contested by



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the respondent no.4 herein and the same is subject matter of the Writ Petition pending before this Court in W.P.No.29597 of 2014. Once the matter is pending before this Court, absolutely the respondent no.3 has no business to deal with the matter and grant retrospective seniority to the respondent no.4, that too without putting all the affected parties on notice.

4. In the light of the above, the impugned order granting retrospective seniority to the respondent no.4 with effect from 01.11.2008 is wholly unsustainable, illegal and arbitrary. Accordingly, the impugned order is set aside and the Writ Petition stand allowed. No costs. Connected Miscellaneous Petitions, if any, shall stand closed.

05.04.2024

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Director of School Education, Chennai – 600 006.

2. The District Educational Officer, Chennai (Central), Chennai – 600 015.



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3. The Secretary, Kumararajah Muthiah Higher Secondary School,
No.4, Crescent Avenue Road,
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MUMMINENI SUDHEER KUMAR, J.

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