



W.P.No.22207 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2024

CORAM

THE HON'BLE **MR.JUSTICE MUMMINENI SUDHEER KUMAR**

W.P.No.22207 of 2017

V.Vijayalakshmi,
Headmaster,
Panchayat Union Primary School,
Koondhalur,
Thiyagathurugam Union,
Villupuram District.

... Petitioner

Vs.

1. The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.
2. The District Elementary Educational Officer,
Villupuram District,
Villupuram.
3. The Assistant Elementary Educational Officer,
Thiyagathurugam Union,
Villupuram District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India
praying for the issuance of a Writ of Certiorarified Mandamus to call for the
records relating to the impugned proceedings issued by the 2nd respondent in



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Na.Ka.No.0293/A3/2016 dated 29.03.2016, quash the same and consequently direct the respondents to promote the petitioner to the post of Primary School Headmaster with retrospective effect on par with her junior based on 2008 panel with all consequential and other attendant benefits within a time frame to be fixed by this Hon'ble Court.

For Petitioner : Mr.S.Nedunchezhiyan

For Respondents : Mr.K.H.Ravikumar, GA

ORDER

Petitioner herein was initially appointed as a Secondary Grade Teacher on 17.10.1996 in Thiyagathurugam Union and in the year 2008, the name of the petitioner was included in the panel for promotion to the post of Primary School Headmaster. But, the petitioner was not considered for promotion to the said post on the ground that the petitioner was involved in a Criminal Case Vide Crime No.425 of 2007 under Sections 309 and 174(3) of the Indian Penal Code. Thereafter the said Criminal case ended in acquittal on 30.03.2012 by an order passed by the Additional District Court-cum-Fast Track Court No.3, Kalakurichi by quashing C.C.No.260 of 2008. In view of same, the petitioner was reinstated into the services on 03.12.2010.



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2. Subsequently, the charge memo dated 31.12.2012 was issued.

Aggrieved by the said charge memo, the petitioner approached this Court by filing W.P.No.8859 of 2013 and it was disposed of by order dated 11.8.2014 directing the second respondent herein to consider the explanation submitted by the petitioner in accordance with the G.O.Ms.No.124 P&AR Department dated 22.2.1983. Pursuant to the same, the second respondent passed final orders dropping the charge memo issued against the petitioner through proceedings dated 07.11.2014. Therefore, the petitioner made a claim for promotion to the post on Primary School Headmaster on par with her junior as per 2008 panel by submitting a representation.

3. Thereafter, the petitioner was given promotion to the post of Primary School Headmaster in the year 2015 as per the panel drawn in the year 2015 and she joined the promotional post on 16.8.2015. However, she was reverted to the lower post of Secondary Grade Teacher during March 2017 for want of vacancy. Once again, she was given promotion to the post of Primary School Headmaster on 31.5.2017 vide the proceedings of the third respondent with effect from 01.6.2017. In the meantime, the representation of the petitioner dated 28.1.2016 claiming promotion to the post of Headmaster with



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retrospective effect on par with her junior based on the panel drawn for the year 2008 was rejected vide proceedings of the second respondent dated 29.3.2016. Aggrieved by the same, the petitioner approached this Court by filing this writ petition challenging the said proceedings dated 29.3.2016 issued by the second respondent.

4. Heard the learned counsel on either side.

5. There is no dispute on the factual aspects that the name of the petitioner was in the seniority list prepared for promotion to the post of Primary School Head Master in the year 2008 and her case was not considered only on the ground that the petitioner was involved in Crime No.425 of 2007. Subsequently, the criminal proceedings ended in her favour and suspension was revoked and she was permitted to join duty vide proceedings of the second respondent dated 03.12.2010. Further, the departmental proceedings initiated against her were also dropped vide proceedings dated 07.11.2014.

6. Thus, it is evident that the name of the petitioner was not considered for promotion to the post of Primary School Headmaster during the year 2008



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only on the ground of involvement in a criminal case, which ultimately ended in acquittal. Therefore, the petitioner cannot be held to be responsible and she should not be deprived promotion on par with her juniors. Though the juniors of the petitioner were already promoted in the year 2008 itself, the case of the petitioner was not considered for promotion on par with her juniors. The respondents are under an obligation to consider the case of the petitioner for promotion on par with her juniors as per the panel drawn for the year 2008.

7. Hence, the impugned order dated 29.3.2016 passed by the second respondent rejecting the claim of the petitioner is set aside. The writ petition is partly allowed with a direction to the second respondent to consider the case of the petitioner for promotion to the post of Primary School Headmaster on par with her juniors, who were promoted during the panel year 2008 and to pass appropriate orders promoting petitioner on par with her juniors and notionally fix pay of the petitioner thereon. However the petitioner shall not be entitled for payment of arrears with retrospective effect for the period from 2008 to 2015 on the principle of 'no work no pay'. No costs.

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Index : Yes/No

Neutral Citation : Yes/No

adl

To

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MUMMINENI SUDHEER KUMAR, J.

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