



W.P.No.29748 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 22.07.2024

Pronounced on : 27.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.29748 of 2023 and

WMP.No.29358 of 2023

D.Evelyn Anita

... Petitioner

Vs.

- 1.The State of Tamilnadu,
Rep. By Secretary to Government,
Education Department,
Fort St.George,
Chennai 600 009
- 2.The Director of School Education,
(Higher Secondary)
Chennai 600 006
- 3.The Joint Director of School Education,
(Higher Secondary)
Chennai 600 006
- 4.The Chief Educational Officer,
Ranipet,
Ranipet District
- 5.The CSI Diocese of Vellore,
Rep. By its Bishop,
3/1, Anna Street,
Vellore 632 001
- 6.The Correspondent,
V.R.V.Girls Higher Secondary School,
Ranipet,
Ranipet District
- 7.S.Suguna

... Respondents



W.P.No.29748 of 2023

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings of the fourth respondent in Na.Ka.No.397 Aa2/2023 dated 10.08.2023 quash the same and direct the fourth respondent to approve the petitioner's promotion as PG Teacher in the VRV Girls Higher Secondary School, Ranipet with effect from 07.09.2012.

For Petitioner : Mr.V.Selvaraj
for Mr.D.Jayasingh

For Respondents
For R1 to 4 : Mrs.P.Rajeswari,
Government Advocate

For R5 & 6 : Mr.D.Muthukumar
for M/s.Paul and Paul

For R7 : Mr.S.N.Ravichandran
for Mr.R.D.Ashokumar

ORDER

This writ petition has been filed challenging the order passed by the fourth respondent dated 10.08.2023 thereby rejected the request made by the petitioner to approve her promotion as PG Teacher in the sixth respondent school with effect from 07.09.2012.



W.P.No.29748 of 2023

WEB COPY

2. The sixth respondent school is a minority aided school governed by Tamilnadu Private Schools (Regulation) Act. The petitioner is qualified with post graduation degree in M.A. English and B.Ed. She was appointed as Secondary Grade Teacher in the sixth respondent school and subsequently she was promoted to the post of PG Assistant by the fifth respondent by its proceedings dated 06.09.2012. Thereafter the sixth respondent school had sent a proposal for approval of her appointment as PG Assistant. The said proposal was returned on the ground that the seventh respondent had filed appeal as against the promotion of the petitioner to the post of PG Assistant on the ground that the promotion was contrary to Special Rules for Tamilnadu Higher Secondary Educational Service. Thereafter the fourth respondent sent a communication to the sixth respondent and the seventh respondent stating that the seventh respondent should be considered for promotion to the post of PG Teacher by referring Rule 15 (4) of the Tamilnadu Recognised Private Schools (Regulation) Rules, 1974 as well as GO.Ms.No.720 Education Department dated 28.04.1981. However, the third respondent by its communication dated 10.04.2014 stated that the



W.P.No.29748 of 2023

petitioner as well as the seventh respondent were qualified for the post of PG Assistant and considering the fact that the seventh respondent was about to retire from service and as such, the sixth respondent should reconsider the petitioner's promotion as PG Teacher. Therefore, the seventh respondent filed writ petition before this Court in WP.No.11815 of 2014 challenging the proceedings of the sixth respondent. However, the said writ petition was subsequently withdrawn with liberty to file a fresh writ petition. However, by the proceedings dated 10.07.2014, the fifth respondent appointed the petitioner as BT Assistant and promoted the seventh respondent to the post of PG Teacher in English.

2.1 Therefore, the petitioner filed writ petition before this Court in WP.No.21772 of 2014 challenging the order of promotion of the seventh respondent. In view of the interim order passed by this Court, the petitioner continued as PG Assistant in English. This Court by order dated 28.10.2014, directed the District Educational Officer to issue notice to the petitioner as well as the seventh respondent and to pass fresh orders either confirming the petitioner's promotion or the seventh



W.P.No.29748 of 2023

respondent's promotion to the post of PG Assistant. As directed by this Court, the District Educational Officer by its communication dated 12.11.2014, approved the promotion of the seventh respondent and stated that the promotion of the petitioner was not in accordance with the Rules. Once again the petitioner challenged the refusal of the approval of her promotion in WP.No.34379 of 2014. In the meanwhile, the fifth respondent initiated disciplinary proceedings as against the petitioner and the same was also challenged by the petitioner before this Court in WP.No.3432 of 2016. The petitioner also filed another writ petition in WP.No.4158 of 2016 questioning the approval of the appointment of the seventh respondent. In pursuant to the disciplinary proceedings, the sixth respondent by an order dated 12.05.2017, removed the petitioner from service. It was also challenged by the petitioner in WP.No.14064 of 2017.

2.2 All the writ petitions were disposed of by common order dated 23.06.2023 and accordingly, the order of removal of the petitioner was quashed and the approval of the promotion of the seventh



W.P.No.29748 of 2023

respondent was also quashed and the fifth respondent was directed to pass fresh orders. The fourth respondent passed orders dated 10.08.2023 thereby approved the promotion of the seventh respondent to the post of PG Assistant in English.

3. *Mr.V.Selvaraj*, the learned counsel appearing for the petitioner would submit that the Special Rules for Tamilnadu Higher Secondary Educational Service is not applicable to the private schools since it is governed by Tamilnadu Private Schools (Regulation) Act. There is a separate seniority for higher secondary teachers at the State level. The Tamilnadu Recognized Private Schools (Regulation) Rules states about the promotion and it shall be from among the qualified teachers in that school. Higher Secondary School is one unit for the purpose of promotion. The school in which the petitioner is working is a higher secondary school having standards from 6th to 12th under the control of the second respondent. The petitioner is qualified with M.A.English and B.Ed. and she is eligible to be appointed as PG Assistant.



W.P.No.29748 of 2023

WEB COPY

3.1 He further submitted that Rule 15(4)(iii) of the Tamilnadu Recognized Private Schools (Regulation) Rules states that the promotion shall be from among the qualified teachers in that school. Prior to its amendment, the qualification of teachers appointed in the private schools was ordered to be in terms of GO.Ms.No.720 Education Department dated 28.04.1981. Therefore, the Special Rules for Tamilnadu Higher Secondary Educational Service is not applicable to the private schools and there is no feeder category for promotion to the post of PG Assistant.

4. Heard, the learned counsel appearing on either side and perused all the materials placed before this Court.

5. On perusal of the counter filed by the fourth respondent and on hearing the submissions of *Mrs.P.Rajeswari*, the learned Government Advocate appearing for respondents 1 to 4, revealed that the sixth respondent school is a minority higher secondary (girls) school. A vacancy arose for the post of PG Assistant on 01.06.2012 due to promotion of a PG Teacher as Headmistress in the sixth respondent



W.P.No.29748 of 2023

school. In the said vacancy, the petitioner was appointed to the post of PG Assistant in English and proposal was sent for approval of her promotion. Therefore, the District Educational Officer issued show cause notice to the sixth respondent as to how the promotion is made to the junior most Secondary Grade Teacher directly to the post of PG Assistant. Thereafter, the proposal for approval was rejected. Thereafter the seventh respondent being the senior most teacher and she is eligible for promotion to the post of PG Assistant, she was promoted to the post of PG Assistant in English. Thereafter the petitioner was reverted to the post of BT Assistant. As per Rule 15(4) (1) (ii) of the Tamilnadu Recognised Private School (Regulation) Rules, if the posts are to be filled up on the basis of merit and ability and when the merit and ability are approximately equal, seniority should be considered. As far as the seventh respondent is concerned, she is qualified for holding the post of BT Assistant and she is the senior most person. Further she was about to retire on 12.11.2014. Therefore, she was appointed and her appointment was approved.



W.P.No.29748 of 2023

WEB COPY

6. However, the rejection of approval of the petitioner's promotion was quashed by this court and directed to pass fresh orders. Accordingly, the petitioner, the sixth and the seventh respondents were served with notice for enquiry at the Office of the fourth respondent. After due opportunity given to them, it was declared that the promotion given to the seventh respondent was as per Section 37 of the Tamilnadu Higher Secondary Special Rules in GO.Ms.No.720 Education Department dated 28.04.1981 for promotion to the post of Graduate Teacher in a school where there is qualified person who has completed Master's degree in the subject of Bachelor's degree with qualifying subject, promotion has been given on the basis of the rule. Accordingly, the seventh respondent's appointment to the post of PG Assistant was duly approved. Further, the promotion of the petitioner from Secondary Grade Teacher to the post of PG Assistant is in violation of Rule 15(4) of the Tamilnadu Recognised Private School (Regulation) Rules. Therefore, the petitioner was not coming under the feeder category for promotion to the post of PG Assistant.



W.P.No.29748 of 2023

WEB COPY

7. Further on perusal of the counter filed by the fifth respondent and on hearing the submissions of *Mr.D.Muthukumar*, the learned counsel appearing for respondents 5 & 6, revealed that the petitioner was served with charge memo and after enquiry, she was terminated from service. However, it was quashed by this Court and directed the fourth respondent to pass orders after issuance of notice in the proposal sent for approval.

8. It is relevant to extract the provisions under Rule 15(4) of the Tamilnadu Recognised Private School (Regulation) Rules hereunder:

15(4) (i) Promotion shall be made on grounds of merit and ability, seniority being considered only when merit and ability are approximately equal.

(ii) Appointments to the various categories of teachers shall be made by the following methods:

(i) Promotion among the qualified teachers in that school.

(ii) If no qualified and suitable candidate is available by method (i) above

(a) Appointment of other persons employed in that school, provided they are fully qualified to hold the post of teachers.

(b) Appointment of teachers from any other school.

(c) Direct recruitment.

(d) Appointment to the post of Headmaster of Higher Secondary School shall be made by the method specified in clause (ii) either from the category of Headmasters of High Schools or



W.P.No.29748 of 2023

WEB COPY

Teachers' Training Institutes or from the category of Post-Graduate Assistants in academic subjects or Post-Graduate Assistants in Languages provided they possess the prescribed qualifications.]

8.1 Accordingly the seventh respondent was having qualification to hold the post of PG Assistant in English. Therefore, the promotion of the seventh respondent is in accordance with the provisions of the Tamilnadu Recognised Private School (Regulation) Rules. That apart, the seventh respondent was retired from service while attaining the age of superannuation on 30.11.2014.

9. In view of the above, this Court finds no infirmity or illegality in the impugned order dated 10.08.2023 passed by the fourth respondent. As such, this writ petition is devoid of merits and liable to be dismissed. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

27.08.2024

Neutral Citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
lok



WEB COPY



W.P.No.29748 of 2023

G.K.ILANTHIRAIYAN, J.

lok

To

1. Secretary to Government,
The State of Tamilnadu,
Education Department,
Fort St.George,
Chennai 600 009
2. The Director of School Education,
(Higher Secondary)
Chennai 600 006
3. The Joint Director of School Education,
(Higher Secondary)
Chennai 600 006
4. The Chief Educational Officer,
Ranipet,
Ranipet District
5. The CSI Diocese of Vellore,
Rep. By its Bishop,
3/1, Anna Street,
Vellore 632 001
6. The Correspondent,
V.R.V.Girls Higher Secondary School,
Ranipet,
Ranipet District

W.P.No.29748 of 2023 and
WMP.No.29358 of 2023

27.08.2024