



W.P.(MD) No.494 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.494 of 2021

G.Jeyakumari

... Petitioner

Vs.

1.The District Educational Officer,
Valliyoor,
Tirunelveli.

2.The Hindu Middle School,
(A Minority Institution),
Rep., by its Correspondent,
Panditharkurichi Village,
Paththai Post, Kalakad,
Nanguneri Taluk, Tirunelveli.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the 1st respondent in Na.Ka.No.1660/A2/2020, dated 03.11.2020 and quash the same and consequently direct the respondents to award selection grade to the petitioner in the post of B.T Assistant as on 02.09.2020 with all monetary benefits within the time fixed by this Court.



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For Petitioner : Mr.H.Arumugam
For R1 : Mr.V.Om Prakash
Government Advocate
For R2 : Mr.Karthic Raja

ORDER

The petitioner herein was originally appointed as Secondary Grade Teacher on 01.11.1997 in the 2nd respondent-School and on completion of 10 years of service, she was granted Selection Grade on 01.11.2007 in the post of Secondary Grade Teacher. Thereafter, the petitioner was promoted as Middle School Headmaster on 12.09.2010. While so, the 2nd respondent-School was upgraded as High School from the academic year 2013-2014 and the services of the Teachers were also absorbed in the High School. Consequent upon the upgradation of the 2nd respondent-School, the post of Middle School Headmaster also stood converted as B.T. Assistant with effect from 22.03.2014 and she has been continuing in the said post. While so, on completing 10 years from the date of her promotion to the post of Middle School Headmaster, the petitioner made a claim for grant of Selection Grade in terms of the Government Order in G.O.Ms.No.68, Personnel and



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Administrative Reforms (Per-M) Department, dated 23.01.1986. The said claim of the petitioner was rejected by Respondent No.1 by issuing the impugned proceedings dated 03.11.2020 on the ground that the services rendered by the petitioner as Middle School Headmaster cannot be considered, as she was absorbed as B.T.Assistant with effect from 22.03.2014 and thus, she has not completed 10 years of service in the post of B.T.Assistant. Aggrieved by the said proceedings, dated 03.11.2020, the petitioner has filed the present writ petition.

2. It is contended by the learned counsel for the petitioner that in terms of G.O.Ms.No.68, dated 23.01.1986, the services rendered in a lower post or over duty should not be taken into account as qualifying service in the higher post for advancement to the Selection/Special Grades and the services rendered in an equivalent or higher post and other duty alone should be taken into account for advancement to the Selection/Special Grades. He further contended that the posts of Middle School Headmaster as well as B.T.Assistant are equivalent posts and it is the respondents themselves having upgraded the 2nd respondent-School, absorbed the petitioner in the post of



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B.T.Assistant and she is noway benefited by the said absorption and as a matter of fact, according to the learned counsel for the petitioner, the nature of duties are same and the pay scale attached to the post of B.T.Assistant is lesser than the pay scale attached to the post of Middle School Headmaster and hence, his pay protection was granted in favour of the petitioner. Thus, he strenuously contended that the petitioner is continued in the equivalent post for more than 10 years and as such, she is entitled for award of Selection Grade.

3. On the other hand, learned Government Advocate appearing for Respondent No.1 contended that the duties and responsibilities of the posts of Middle School Headmaster and B.T.Assistant are different and therefore, the petitioner cannot claim the service rendered in the post of Middle School Headmaster for the purpose of counting 10 years period in the cadre of B.T.Assistant for award of Selection Grade.

4. This Court has carefully considered the submissions made on either side and perused the entire material available on record.



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5. G.O.Ms.No.68, Personnel and Administrative Reforms (Per-M), dated 23.08.1986 provides for various guidelines providing for grant of Selection Grade/Special Grade in various services. In terms of Clause (vi) of Para 3 of the said Government Order, the service rendered by an employee in an equivalent or higher post on other duty alone should be taken into account for grant of Selection/Special Grades. The relevant clause reads as under:

“3(vi) Service rendered in a lower post, on other duty should not be taken into account as qualifying service in the higher post for advancement to the Selection/Special Grade. The service rendered in an equivalent or higher post on other duty alone should be taken into account for advancement to Selection/Special Grades, to the extent he should have acted in his original post in the parent Department but for his deputation.”

6. From the above, it is evident that in case, if an employee holding a particular post is posted on deputation or on other duty in an equivalent or higher post, the said service on deputation or other duty alone should be taken into account for award of Selection Grade/Special Grade.



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7. If the service rendered on deputation or on other duty is required to be taken into account for the purpose of counting the eligibility period of 10 years for grant of Selection/Special Grades, the question that arises for consideration is as to why the service rendered by the petitioner admittedly in the equivalent post in the very school in the post of Middle School Headmaster, that is prior to the upgradation of the 2nd respondent-School cannot be taken into consideration?

8. The entire purpose and intent of introducing the schemes providing for advancement to Selection/Special Grades etc., is to avoid stagnation in the very same post for long period for want of promotional avenues etc. In the instant case, while the petitioner was working as Middle School Headmaster, the 2nd respondent-School was upgraded to the High School and the post held by the petitioner was converted as B.T.Assistant. Thus, it is not a case of promotion or upgradation of the post held by the petitioner. It is only on noticing the fact that the post of Middle School Headmaster, which is otherwise not available in High Schools, the respondents themselves have converted the post held by the petitioner to that



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of B.T.Assistant. Thus, it is only a conversion of the post of Middle School Headmaster to that of B.T.Assistant. Under no circumstances, it can be called as promotional post or can be treated as a different post, as contended by the learned Government Advocate.

9. Further, from the counter affidavit also, it is evident that the posts of Middle School Headmaster as well as B.T.Assistant are of equivalent posts and it is only on conversion of the post of Middle School Headmaster, the petitioner was absorbed in the post of B.T.Assistant with effect from 23.03.2014. The relevant paragraph from the counter affidavit filed by the 1st respondent reads as under:

“5. It is submitted that the 2nd respondent-School submitted for awarding selection grade in the post of B.T.Assistant on behalf of the petitioner taking the period of service as Middle School Headmaster in the identical scale of pay along with the service of B.T.Assistant. The proposals was returned stating that the petitioner did not complete the period of 10 years in the post of B.T.Assistant and the service rendered in identical post of Middle School Headmaster could not be taken into account for



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awarding selection grade in the post of B.T.Assistant. Aggrieved by this order, the petitioner has filed this Writ Petition challenging the orders of the 1st Respondent dated 03-11-2020 made in Na.Ka.No.1660/A2/2020.”

10. From the above, it is evident that it is only a simple case of conversion of Middle School Headmaster to that of B.T.Assistant and therefore, the contention of the respondents, that the service rendered by the petitioner in the post of Middle School Headmaster cannot be taken into consideration for the purpose of award of Selection Grade, is totally unsustainable. Further, it is also evident that the petitioner is continuing only in the post of the same cadre, firstly as Middle School Headmaster and after conversion as B.T.Assistant. Therefore, in the light of the language used in Clause (vi) of Para 3 of G.O.Ms.No.68, dated 23.08.1986 and by analogy, the petitioner, who is working as B.T.Assistant, is entitled for award of Selection Grade on completion of 10 years from the date of her promotion to the post of Middle School Headmaster by duly taking into consideration the services rendered by her as Middle School Headmaster as well.



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11. In the light of the above, the impugned order is totally unsustainable and the same is set aside. Consequently, Respondent No.1 is directed to forthwith take steps for awarding of Selection Grade to the petitioner by duly taking into account the service rendered by her as Middle School Headmaster and pass appropriate orders as expeditiously as possible, at any rate, within a period of three months from the date of receipt of a copy of this order.

12. Accordingly, this Writ Petition is allowed. No costs.

04.03.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes

ABR

To

The District Educational Officer,
Valliyoor,
Tirunelveli.



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MUMMINENI SUDHEER KUMAR, J.

ABR

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