



WP(MD). No.12671 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 14/06/2024

CORAM

The Hon`ble Ms.Justice R.N.MANJULA

**WP(MD). No.12671 of 2024 and
WMP(MD) Nos.11278 and 11280 of 2024**

1. M.Pandi,

2. Arun Kumar P,

3. Saravanan

... Petitioners

Vs

1. The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
School Education Department,
Fort St.George,
Secretariat, Chennai - 09..

2. The Directorate of School Education Department,
O/o.The Directorate of School Education Department,
Dpi Complex, College Road,
Nungambakkam,
Chennai - 06..

3. The Joint Director of School,
Education Department, (Primary),
Dpi Complex, College Road,
Nungambakkam,
Chennai - 06..



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4. The Chief Educational Officer,
O/o.The Chief Educational Officer,
Madurai..

... Respondents

PRAYER :-Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of impugned order vide Na.Ka.No 13006/W2/E1/2023 dated 14.03.2023 issued by the respondent no.2 and quash the same as bad in law and consequently direct the respondent no.2 to follow the proceedings vide Na.Ka.No. 18258/C1/E1/2018 dated 26.07.2019 by considering the petitioners representation dated 06.04.2024.

For Petitioner : Mr.SMA Jinnah,
For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

The petitioners have filed this writ petition challenging the impugned order of the 2nd respondent dated 14.03.2023 and to direct the 2nd respondent to follow the proceedings vide Na.Ka.No. 18258/C1/E1/2018 dated 26.07.2019 by considering the petitioners representation dated 06.04.2024.



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2. Heard Mr.SMA.Jinnah, learned counsel for the petitioner and Mr.T.Amjad Khan, learned Government Advocate for the respondents.

3. By consent of both sides, the writ petition itself is taken up for final disposal.

4. The petitioners herein are working as Graduate Teachers in Panchayat Union Schools. They were subsequently transferred from the Panchayat union, where they are working, to the other Panchayat Union. Since the schools were upgraded to high school, the petitioners were absorbed in the High Schools and they are working as on date in their transferred place. While so, the 2nd respondent is preparing the seniority list for the post of PG Assistants in accordance with the order dated 26.07.2019. The said order reads that the seniority will be fixed based on the date of joining. Since the petitioners are eligible to be considered for the post of PG Assistants, according to their date of joining, their names have been included. However, as per the seniority list prepared on 14.03.2023, the seniority was calculated as per the date of absorption. Since the petitioners are eligible to be considered by taking into account



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the date of joining, they sent representations to the respondents.

However, the same were rejected. Hence, the petitioners are before this Court with this writ petition.

5. According to the petitioners, the seniority for including the names of the candidates to the promotional post of PG teachers should be considered by taking into account of the date of appointment and not the date of absorption. The petitioners claim is that the respondents have taken the date of absorption as a basis for including them in the promotional list and hence, their names were not found place.

6. However, the learned Government Advocate submitted that whenever a person is transferred from one Union to another Union, the transferred person would be placed as junior-most in the transferee union and thereafter the person concerned can claim seniority only from the seniority he was kept in the transferee union. It is claimed that the petitioners, who have been transferred from one union to another union have been kept at the bottom of the transferee union and hence, it is not right on the petitioners to claim seniority from the date of their appointment.



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7. The Government order in G.O.Ms.No.14 School Education Department dated 30.01.2020, which has been passed to the effect of placing the persons, who have been transferred from one union to another union at the bottom of the transferee union, is very much in force.

8. If at all the petitioners are aggrieved, they ought to have challenges the Government order. However, they have filed the present writ petition challenging the proceedings of the respondent dated 14.03.2023, which has been passed by taking into account of G.O.Ms.No.14 School Education Department dated 30.01.2020

9. In this regard, it is relevant to refer the judgment of the Division Bench of this Court dated 14.12.2012 held in WA(MD) No.2723/2012, wherein, it is observed as under:

“4. The learned Single Judge after taking note of the entire facts held that the Government accepted the request of the persons like the appellants, who were 3000 in number and issued a Government Order on 03.06.2009 and this Government order is not a case of individual transfer, but transfer of a large number of teachers from one unit to the another unit and the Government was



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fully empowered to impose conditions at the time when such transfer was effected.

5. It is an admitted case that the appellants secured lesser rank in the selection conducted by TRB in 2004. Therefore, when they are transferred from one unit i.e.r from Elementary Education Department to the School. Education Department that to on their own requests, they are bound to accept the conditions of such transfer. Therefore, the learned Single Judge rightly dismissed the petition. The writ appeal being devoid of merits is dismissed. costs. Consequently, connected miscellaneous petition is closed.”

10. In a subsequent writ petition in WP No.27264/2019 also, the same logic was adopted, wherein, it has held as under:

“9.That apart, the petitioner having agreed the conditions stated supra had joined the school at Villupuram during August 2009 and now cannot seek for a preference in the school, where he has been transferred. The government servant transferred from one unit to another or one way from the Corporation or Municipal School to Government School under the School Education or elementary education Department or vice versa, will be treated as junior most in their respective category in the transferred unit and the petitioner's seniority has also been fixed appropriately by the



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said unit at Villupuram and therefore, the petitioner's prayer, viz., to include his name in the 2019 Panel of PG Assistant for promotion to the post of Headmaster, cannot be allowed and the same will defeat the very purpose of the government policy and the petitioner's rights are no way affected. The petitioner's turn, if any, will be taken up once he is fit for promotion in the upcoming years.

In view of the above the present Writ Petition is dismissed. No costs.

11. Since the petitioners have filed this writ petitions challenging the impugned order based on the standing orders of the Government, which had placed them as the junior-most in the transferee union and therefore seniority will not relate back to the date of appointment. Since the writ petition is devoid of any merits, the same is dismissed. No costs. Consequently connected Miscellaneous Petitions are closed.

14.06.2024

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TO

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O/o.The Directorate of School Education Department,
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R.N.MANJULA,J

RR

**ORDER
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