



W.P.(MD)No.15643 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 03.07.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.15643 of 2021

P.Ravi Sekar

... Petitioner

Vs.

- 1.The Director of School Education,
Chennai – 600 006.
- 2.The Joint Director of School Education,
Chennai – 600 006.
- 3.The District Educational Officer,
Manapparai,
Tiruchirappalli.
- 4.Kalaimagal High School,
Edamalaipatti,
Tiruchirappalli- 620 012.
(Administrated by
The Chief Educational Officer,
Tiruchirappalli).
- 5.C.Angeline Jeya,
Headmistress (In charge),
BT Assistant in Tamil/ Tamil Pandit,
Kalaimagal High School,
Edamalaiyatti,
Tiruchirappalli – 620012.
(R5 is impleaded vide Court
order dated 22.10.2021 by DKKJ)

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India
for issuance of a Writ of Mandamus, directing the respondents to



W.P.(MD)No.15643 of 2021

notionally grant me promotion to the post of B.T. Assistant from 01.08.2001 and consequently direct the respondents to grant me service benefits and monetary benefits by considering the representations by me dated 21.05.2021 and 09.07.2021.

For Petitioner : Mr.F.Deepak
For Respondents 1 to 3 : Mr.M.Sarangan
Additional Government Pleader
For 5th Respondent : Mr.Xavier Rajini
For 4th Respondent : No Appearance

ORDER

This Writ Petition has been filed to direct the respondents to notionally grant me promotion to the post of B.T. Assistant from 01.08.2001 and consequently direct the respondents to grant me service benefits and monetary benefits by considering the representations by me dated 21.05.2021 and 09.07.2021.

2.The facts, which leads to the filing of the Writ Petition in brief is as follows:-

(a)The petitioner was working as a Secondary Grade Teacher in the fourth respondent School and on attaining the age of superannuation, he retired on 31.05.2014. The petitioner is qualified in B.A. Social Science and B.Ed., as well as eligible for promotion as BT Assistant (Social Science) in the fourth respondent School. The fourth respondent High School, which was then a Middle School, at the time of his appointment, namely, the Kalaimagal Middle School, Edamalaipatty, Trichirappalli was



W.P.(MD)No.15643 of 2021

upgraded as High School on 07.12.1995. Till the date of upgradation, one Tmt.K.Jayalakshmi, who was qualified as Tamil Pandit was working as Headmistress in the Middle School. Pursuant to the upgradation of 4th respondent School as High School on 07.12.1995, the said Tmt.K.Jayalakshmi was reverted back as BT Assistant (Tamil) in the said School. Though the Classes from 6th to 8th standard were aided, the grant for the Classes 9th and 10th standard was not sanctioned and are run under self financing scheme. The post of BT Assistant (General) came to be misconceived as post of BT Assistant (Tamil) in which, the said Tmt.K.Jayalakshmi came to be accommodated as BT Assistant (Tamil) .

(b)The petitioner being the senior most Secondary Grade Teacher filed Writ Petition in W.P.(MD)Nos.923 and 924 of 2006 before this Court, seeking direction to appoint the petitioner to the post of Headmaster incharge of the fourth respondent School and not to recognise one Shanmugam to hold the post of Headmaster incharge in the fourth respondent School. This Court, by its order dated 25.11.2010, has disposed of the said Writ Petitions recording the written instruction of the Government that the post of Headmaster has not been sanctioned and therefore, the petitioner being the senior most Teacher, has been allowed to be incharge of Headmaster. In the meanwhile, Tmt.K.Jayalakshmi, who was reverted back as BT Assistant (Tamil), has died on 30.07.2001. Pursuant to the same, the post of BT Assistant



W.P.(MD)No.15643 of 2021

(Tamil) fell vacant and the fifth respondent herein was promoted as BT Assistant (Tamil). However, the same was not approved. Hence, the fifth respondent filed the Writ Petition in W.P.(MD)No.5427 of 2008 before this Court and this Court, by its order dated 29.10.2008, has directed the District Educational Officer, Trichirappalli, to approve the promotion given to the fifth respondent with effect from 23.09.2002 as BT Assistant (Tamil). However, claiming that the respondent authorities ought to have promoted the petitioner herein to the post of BT Assistant, the petitioner made several representations to the respondent authorities in this regard. While so, on attaining the age of superannuation, he retired on 31.05.2014, even thereafter, he consistently made several representations and the last of which, were on 21.05.2021 and 09.07.2021 and the same were not considered. Hence, this Writ Petition came to be filed.

3.The learned counsel appearing for the petitioner submitted that the respondents on the death of Tmt.K.Jayalakshmi, on 30.07.2001, in the vacancy, which had arisen due to her death, ought to have promoted the petitioner, who was senior most Secondary Grade Teachers among the others including the fifth respondent. Having not done so, the fifth respondent came to be promoted without any basis as BT Assistant (Tamil) and on that basis, he claimed that he is entitled for notional promotion and pressed for allowing the Writ Petition.



W.P.(MD)No.15643 of 2021

WEB COPY

4.The third respondent has filed his counter affidavit and the learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that the petitioner's claim for notional promotion to the post of BT Assistant (Social Science), is without any basis and there was no vacancy in the post of BT Assistant (Social Science). The vacancy had occurred during the year 2021, only due to the death of Tmt.K.Jayalakshmi, who served as BT Assistant (Tamil) and hence, the vacancy, which occurred on her death, was obviously nothing but the post of BT Assistant (Tamil). Hence, the petitioner's claim is not sustainable.

5.The learned counsel appearing for the fifth respondent drew my attention to the judgment passed in Writ Appeal in W.A.(MD)No.570 of 2009 filed by the petitioner, assailing the order of learned Single Judge in W.P.(MD)No.5427 of 2008 dated 29.10.2008, by which, the learned Single Judge had directed the District Educational Officer, Trichirappalli to approve the appointment of the fifth respondent as BT Assistant (Tamil). The Hon'ble Division Bench of this Court in the aforesaid Writ Appeal preferred by the writ petitioner, by judgment dated 29.09.2010, dismissed the Writ Appeal and the operative portion of the same is extracted is as follows:-

“8.The Writ Appeal at the instance of the appellant is



W.P.(MD)No.15643 of 2021

clearly not maintainable. The appellant has not challenged the appointment of the first respondent. The writ petition was against non-approval of appointment of the first respondent. The post in question being Tamil Pandit, the only qualified candidate suitable for such appointment was the first respondent. Therefore, it was not open to the appellant to challenge the order of the learned Single Judge. Since the appellant has not filed the writ petition, challenging the appointment of the first respondent, it was not open to him to challenge the order passed by the learned Single Judge in the Writ Petition filed by the first respondent against the order of non-approval of her appointment."

6.Heard the learned counsel for the petitioner, the learned Additional Government Pleader for the respondents 1 to 3, the learned counsel for the fifth respondent and carefully perused the materials available on record.

7.Fully fortified by the judgment of the Hon'ble Division Bench of this Court extracted supra, since the petitioner failed to challenge the appointment of the fifth respondent as BT Assistant (Tamil), he has no *locus standi* to file this Writ Petition. The respondents are directed to comply with the order passed by the learned Single Judge, in W.P. (MD)No.5427 of 2008 dated 29.10.2008 within a period of 12 weeks from the date of receipt of copy of this order.



W.P.(MD)No.15643 of 2021

8. Accordingly, the Writ Petition stands dismissed. There shall be no order as to costs.

03.07.2024

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

To

1. The Director of School Education,
Chennai – 600 006.
2. The Joint Director of School Education,
Chennai – 600 006.
3. The District Educational Officer,
Manapparai,
Tiruchirappalli.



WEB COPY



W.P.(MD)No.15643 of 2021

L.VICTORIA GOWRI, J.

Mrn

W.P.(MD)No.15643 of 2021

03.07.2024