



WP(MD) No.17438 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.07.2024**

CORAM:

**THE HONOURABLE MS.JUSTICE R.N.MANJULA**

W.P.(MD) No.17438 of 2024

1. Dhinakaran Koil Mani

2. Samuel Selva Prabu

... Petitioners

Vs.

1. The Director of Elementary Education,  
DPI Campus,  
College Road,  
Chennai - 6.

2. The District Educational Officer (Elementary Education),  
Tuticorin,  
Tuticorin District.

3. The District Educational Officer (Elementary Education),  
Hosur,  
Krishnagiri District.

... Respondents



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**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, call for the records of the impugned order passed by the third respondent in his proceedings No.Na.Ka.2554/A3/2023 dated 03.11.2023 and quash the same and consequently directing the first respondent to include the name of the petitioners in the State wise Seniority Panel for promotion by reckoning the date of joining as on 14.12.2009 instead of 04.01.2010 by regulating the appointment of the petitioners with retrospective effect from 14.12.2009 with all consequential benefits.

For Petitioners : Mr.RM.Arun Swaminathan

For Respondents : Mr.M.Siddharthan

Additional Government Pleader

### **ORDER**

The present writ petition has been filed seeking a Writ of Certiorarified Mandamus, to quash the impugned order of the third respondent dated 03.11.2023 and consequently, directing the first respondent to include the name of the petitioners in the State wise Seniority Panel for promotion by reckoning the date of joining as on



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14.12.2009 instead of 04.01.2010 by regulating the appointment of the petitioners with retrospective effect from 14.12.2009 with all consequential benefits.

2. Heard Mr.RM.Arun Swaminathan, learned counsel appearing for the petitioners and Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents

3. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

4. The petitioners were appointed as Secondary Grade Teacher and appointment orders have been issued on 14.12.2009. However, they have joined duty only on 04.01.2010. The petitioners repeated request to the respondents is to consider their seniority by taking into account their date of appointment and not from the date of their joining. The reason given by the petitioners to make such prayer is that they could not join immediately after the appointment order was issued, in view of the code of conduct which was in force due to



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election.

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5. To be noted, similar representations given by the petitioners have been considered earlier and an order has been passed on 30.11.2016 by rejecting the petitioners' request. In the said order, dated 30.11.1996, it is observed that there are no rules in force to consider the seniority of the petitioners taking into account of the receipt of the date of the order of the appointment.

6.The petitioners have challenged the above order by way of preferring W.P.(MD)Nos.2224 and 2227 of 2023. The same was dismissed with an observation that the Court was not inclined to entertain the writ petitions. However, it is for the petitioners to work out their remedy by making appropriate representation to the respondents. Now, on receiving the representation, the respondents have passed the very same order alleging that the petitioners' request to consider the seniority from the date of issuance of their appointment order, which is not correct.

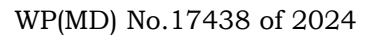


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7. However, the learned counsel for the petitioners tried to make a distinction between the earlier order and the impugned order now passed on 19.06.2023, on account of the fact that the earlier order has stated about the absence of any rules, but the present petitioners' claim the benefits an order of the High Court stated in this regard held in W.P.No.26893 of 2016, dated 22.11.2018, wherein, the petitioners have been given with promotion by taking into account of their date of appointment and not the date of their joining. Further submission of the learned counsel for the petitioners is that it is for the first respondent to consider and the request of the petitioners is rejected at the level of the second respondent himself.

8. Since the petitioners believe that their representation might receive a different consideration at the hands of the Government in accordance with the earlier judicial pronouncements made in W.P.No.26893 of 2016, the petitioners are at liberty to give a fresh representation. However, in order to enable the first respondent to consider the representation of the petitioners, the impugned order is has to be set aside.



**29.07.2024**

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**R.N.MANJULA, J.**

RM

Order made in  
W.P.(MD)No.17438 of 2024  
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