



WP(MD) Nos.17424 to 17426 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.03.2024

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THE HON'BLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD)Nos.17424 to 17426 of 2021
and W.M.P.(MD)Nos.14299, 14300 & 14302 of 2021

W.P.(MD)No.17424 of 2021

A.Rajasekaran

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
School Education Department ,
St. George Fort, Chennai - 09.
- 2.The Director of School Education,
College Road, Chennai.
- 3.The Joint Director of School
Education (Higher Secondary),
College Road, Chennai.
- 4.The Chief Educational Officer,
Tiruchirappalli District.
- 5.The District Educational Officer,
Tiruchirappalli District.



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6.The E.R.Higher Secondary School,
Rep. by its Secretary & Correspondent
& Headmaster,
Thillai Nagar, Tiruchirappalli

7.The Accountant General,
The Principal Accountant General
(Accounts and Entitlements) Tamil Nadu,
361, Anna Salai, Chennai.

... Respondents

W.P.(MD)No.17425 of 2021

R.Vijayakumar

... Petitioner

Vs.

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

2.The Director of School Education,
College Road, Chennai.

3.The Joint Director of School
Education (Higher Secondary),
College Road, Chennai.

4.The Chief Educational Officer,
Tiruchirappalli District.

5.The District Educational Officer,
Tiruchirappalli District.



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6.The Higher Secondary School for Boys,
Srirangam,
Rep. by its Secretary & Correspondent
& Headmaster,
Tiruchirapalli.

7.The Accountant General,
The Principal Accountant General
(Accounts and Entitlements) Tamil Nadu,
361, Anna Salai, Chennai.

... Respondents

W.P.(MD)No.17426 of 2021

M.Sundaresan

... Petitioner

Vs.

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

2.The Director of School Education,
College Road, Chennai.

3.The Joint Director of School
Education (Higher Secondary),
College Road, Chennai.

4.The Chief Educational Officer,
Tiruchirappalli District.

5.The District Educational Officer,
Tiruchirappalli District.



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6.The K.A.P.V.Higher Secondary School,
Rep. by its Correspondent & Headmaster,
Thillai Nagar, Tiruchirappalli.

... Respondents

COMMON PRAYER: Petitions filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, calling for entire records relating to the impugned proceedings of the 3rd respondent in his proceedings in Na.Ka.No.18337/W5/E1/2014, dated ..07/2021 signed on 14/07/2021 and quash the same as illegal insofar as granting approval w.e.f. issuance of impugned proceedings and consequentially to direct the 2nd respondent herein to regularise the services of the petitioner as Grade I Physical Director (Higher Secondary) on par similarly placed persons , by upgrading the petitioner's post i.e. Grade II Physical Director to Grade I Physical Director (Higher Secondary) from the date of eligibility i.e. 01.09.1990, 01.07.2002 and 27.07.1992 with arrears and all service benefits and consequentially to refix the pensionary benefits within the time stipulated by this Court.

For Petitioner : Mr.VR.Shanmuganathan
(In all W.Ps)

For Respondents : Mr.V.Om.Prakash,
(In all W.Ps) Government Advocate for R1 to R5
Ms.S.Mahalakshmi,
Standing Counsel for R7
in W.P.(MD)Nos.17424 & 17425/2021



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COMMON ORDER

The petitioners in all these writ petitions, who were working as Physical Director Grade II in the respective respondent No.6 schools, on an earlier occasion approached this Court claiming upgradation of their respective posts to the post of Physical Director Grade-I Teacher, but the said claim was negated by this court in W.P.(MD)Nos.552 to 557 of 2014 by an order dated 04.12.2020, holding that the petitioners have failed to establish any legal ground to claim upgradation to the post claimed by them. However, the learned single Judge made it clear that in the event of availability of the sanctioned upgraded post of Physical Director Grade I, the petitioners are at liberty to approach the competent authority for submission of proposal through proper channel and in such circumstances, the competent educational authorities are bound to consider based on the students strength and based on other factors and take a decision in accordance with law. The petitioners herein claimed to have filed writ appeals against the said order dated 04.12.2020 and the same are stated to be pending.



2. However, taking advantage of the observations made by the learned single Judge in the said order, the petitioners approached the respondent authorities claiming for upgradation. Considering the said request made by the petitioners, respondent No.3 passed the impugned orders by making a reference to G.O.Ms.No.73, School Education Department (D1), dated 19.03.2010 which provides for upgradation of one post out of three posts existing in particular school under the same management provided the student strength of the said school is more than 400 in respect of the classes 9 to 12. But rejected the claim of the petitioners without discussing as to whether the schools in which the petitioners are working satisfied the criteria under G.O.Ms.No.73, School Education Department (D1), dated 19.03.2010 or not.

3. The respondent No.5 has filed a counter affidavit, dated 20.10.2021 in all these writ petitions contending that the claim of the petitioners was considered and accordingly, the posts held by the petitioners herein were upgraded as Physical Director Grade-1 from the date of issue of orders in the respective cases viz., with effect from 14.07.2021. The said prospective upgradation of the posts of Physical Director Grade I is questioned in these



writ petitions mainly on the ground that the petitioners herein have already retired from service long back but by giving prospective effect of upgradation to the post of Physical Director Grade I, no benefit would accrue to the petitioners. Further, from the counter affidavit and the impugned order also it appears that the respondent No.3 has taken into consideration the factual matrix that are existing in the 6th respondent schools as during the year 2021 instead of considering the same with reference to the period during which the petitioners worked in their respective schools and claiming for upgradation. The claim of the petitioners is also for upgradation during the relevant period ie., prior to the date of their retirement but not for the present. Thus, it appears that the impugned orders are passed without application of mind by upgrading the posts held by the petitioners with prospective effect.

4. In the circumstances, this Court is of the considered view that it is necessary that the respondent No.3 shall consider the factual matrix while the petitioners herein were in service and then consider the claim of the petitioners subject to satisfying the requirements as provided under G.O.Ms.No.73, School Education Department (D1), dated 19.03.2010.



5. In the circumstances, the impugned orders are totally untenable and the same are accordingly set aside, duly remanding the matter back to the third respondent for considering the claim of the petitioners afresh for the upgradation to the post of Physical Director Grade -I for the period during which the petitioners were in service in their respective schools. Respondent No.3 is further directed to pass appropriate orders by duly affording opportunity to the petitioner and respondent No.6 as expeditiously as possible at any rate within a period of two months from the date of receipt of a copy of this order.

6. Accordingly, W.P.(MD)Nos.17424 and 17425 of 2021 are allowed, to the extent indicated above.

7. Insofar as W.P.No.(MD)No.17426 of 2021 is concerned, the petitioner is still continuing in service. However, the benefit of upgradation is granted with prospective effect that is when the date of issue of proceedings dated 14.07.2021 by ignoring the claim of the petitioner for upgradation from the date of satisfying the criteria as contemplated under G.O.Ms.No.73, School Education Department (D1), dated 19.03.2010. That



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aspect of the matter is not at all considered by the respondent No.3 while passing the impugned orders. Hence, this Writ Petition is disposed of directing respondent No.3 to reconsider the claim of the petitioner for upgradation from the date on which the criteria under G.O.Ms.No.73, School Education Department (D1), dated 19.03.2010 is satisfied by the respondent No.6 school and pass appropriate orders in accordance with law by affording opportunity to the petitioner and respondent No.6 as expeditiously as possible at any rate within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

06.03.2024

NCC : Yes/No

Index : Yes/No

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MUMMINENI SUDHEER KUMAR, J.

vsm

To

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Rep by its Principal Secretary to Government,
School Education Department ,
St. George Fort, Chennai - 09.
- 2.The Director of School Education,
College Road, Chennai.
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