



W.P.(MD).No.26310 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.01.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.26310 of 2023
and W.M.P(MD) Nos.22652 and 24572 of 2023

S.Ramesh

... Petitioner

Vs

1. The Director of School Education,
College Road,
Chennai.
2. The Joint Director of School Education,
Personnel, College Road,
Chennai.
3. The Chief Educational Officer,
Thanjavur.
4. The District Educational Officer,
Primary Education,
Pattukottai.
5. The District Educational Officer,
Secondary Education,
Thanjavur.
6. The Block Education Officer,
Ammapettai,
Thanjavur District.



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7. The Head Master,
Government High School,
Kayavoor,
Thanjavur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings of the 3rd respondent, dated 27.10.2023 in Na.Ka. No.11082/A1/2023 and quash the same.

For Petitioner : Mr. V.R.Shanmuganathan

For Respondents : Mr.G.Suriyaananth
Additional Government Pleader

ORDER

The present writ petition has been filed to quash the impugned proceedings of the 3rd respondent, dated 27.10.2023 in Na.Ka. No. 11082/A1/2023.

2.(i).The petitioner joined the service of the Education Department as Office Assistant and his probation was declared successfully, following which, by transfer of service, he was posted as Record Clerk on 01.10.2010. With effect from 21.07.2012 he was promoted as Lab Assistant. Thereafter, by transfer of service, he was posted as Typist with effect from 02.12.2013. While he was working as Typist from 02.12.2013 till 27.10.2023, the date on



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which, impugned order was passed, the petitioner was reverted back to the post of Lab Assistant. Challenging the same, this writ petition came to be filed.

3.The learned counsel for the petitioner submitted that the impugned order of reversion, by reverting the petitioner back to the post of Lab Assistant having served as Typist for about 10 years, that too, without notice to the petitioner is illegal and the same has to be interfered and sought for allowing the petition.

4.Heard, the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the respondents. Perused the materials on record.

5.The matter in hand is no more res-integra. Relying upon the order passed in W.P.(MD)No.13849 of 2020, dated 21.12.2020, wherein, the issue of same scale of pay to Junior Assistant/Typist and Lab Assistant was dealt with, this Court has passed a favourable order to the petitioner and the relevant portion is extracted hereunder:

“11. This Court has considered the arguments of the learned counsel for the petitioners and the learned Special Government Pleader



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for the respondents. The issue that calls for adjudication before this Court is rather peculiar one for the reason that though these petitioners have been compensated in terms of the emoluments by bringing them on par with the Junior Assistants in the matter of pay scale, yet, on the other hand, the effect of such action of the respondents in 2017, has resulted in negation of the right of the petitioners for their legitimate career advancement.

12. The rules which were amended in 2002 by providing a percentage of quota for transfer of persons from other service to the ministerial service in the matter of promotional prospects of the Lab Assistants, the administration could not have possibly foreseen the present development, namely bringing the pay scale on par as between the Lab Assistants and Junior Assistants. However, in the light of the above development, the authority should not lose sight of the fact that the amendment to the rule was necessitated to provide promotional avenue to the post of Lab Assistant, as without such amendment, the post would have become dead end post.

13. As submitted by the learned counsel for the petitioners that the post of Lab Assistant does not have any other avenue of promotion except to the post of Junior Assistant and from Junior Assistant, further career advancement is possible in the administrative hierarchy. If promotion to the post of Junior Assistant is denied, it means that the career advancement of the petitioners would come to an abrupt halt permanently till their retirement. Such adverse scenario does not augur well for good administration as right to have reasonable and proper promotional opportunity, is a fundamental right within the administrative framework and no category of employees could be denied the legitimate career progression in Public Service and allow them to stagnate at a particular level undermining their efficiency and expectations.”



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6.In the aforementioned case, as discussed supra, this Court has clearly held that the Authority should provide promotional avenue to the post of Lab Assistant, by way of amending the rule, without such amendment, the post would have become dead end post.

7.In the instant case, though the petitioner has served for more than 10 years in the post of Typist, without giving notice to the petitioner, by way of passing the impugned order, the petitioner has been reverted back to the post of Lab Assistant, wherein, there is no promotional avenue and the said exercise is perse illegal and liable to be quashed.

8.Accordingly, the writ petition stands allowed by way of quashing the impugned order of the third respondent, dated 27.10.2023. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

08.01.2024

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



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L.VICTORIA GOWRI, J.

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