



W.P. No.10176 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2025

CORAM

THE HONOURABLE MR. JUSTICE **G.ARUL MURUGAN**

W.P. No.10176 of 2013

K.M.Thamaraiselvi

.. Petitioner

Vs.

1.The Director of Elementary School
Education, DPI Campus,
Chennai.

2.The District Elementary Educational
Officer, Coimbatore District.

3.The Additional Assistant Elementary
Educational Officer,
Karamadai, Coimbatore District.

4.K.Thulasiammal
5.S.Amudha

.. Respondents

Writ petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records relating to the impugned orders dated 11.01.2010 in Na.Ka.No.43940/L1/2009 and the proceedings dated 20.04.2010 bearing reference Na.Ka.No.11825/T3/2010 passed by the first respondent herein and quash the same and consequently



W.P. No.10176 of 2013

direct the respondents to promote the petitioner as Headmistress, Middle School, Karamadai Union, Coimbatore District, over and above the persons K.Thulasiammal and S.Amudha with all backwages, seniority and other benefits.

For Petitioner	:	Mr.R.Saravanan for Mr.T.Sai Krishnan
For Respondents	:	Mr.P.Ananda Kumar, Government Advocate for R1 to R3 Mr.V.Sivalingam for M/s.C.S. Associates for R4 and R5

ORDER

This writ petition is filed challenging the orders of the first respondent dated 11.01.2010 and 20.04.2010 and for a consequential direction to promote the petitioner as Headmistress over and above the fourth and fifth respondents.

2. According to the petitioner, she was initially appointed on 03.12.1990 as a Secondary Grade Teacher on consolidated pay in view of G.O.Ms.No.1524 dated 12.11.1990. In view of G.O.Ms.No.20 dated 08.01.1993, all the teachers who were appointed on consolidated pay from 1990-1991 and 1991-1992 were regularised. It is the grievance of the petitioner that when



W.P. No.10176 of 2013

respondents 4 and 5 were transferred to Karamadai Union and joined duty on 10.10.1991 and 06.07.1994 respectively, they ought to have been placed as junior most in the Union but, however, the petitioner was superseded and respondents 4 and 5 were placed as seniors in the Karamadai Union. The petitioner had submitted a representation objecting to placing her as junior to respondents 4 and 5 and the same was rejected by the second respondent by order dated 06.06.2006.

3. Challenging the rejection order dated 06.06.2006, the order of the third respondent dated 16.05.2006 and the impugned panel dated 20.02.2006, the petitioner had preferred a writ petition in W.P.No.19682 of 2006 and by order dated 12.01.2009, the rejection order was set aside holding that placing of respondents 4 and 5 as seniors was wrong and the directions were issued to the official respondents to pass orders based on the orders granted by the Division Bench in W.A.Nos.1585 to 1624 of 2001 dated 10.04.2008. In fact, the services of the teachers were regularised from the date of the initial appointment as per the orders in the writ appeal. Pursuant to the orders in the writ petition, the petitioner had sent a representation, which also ultimately came to be rejected by the orders of the first respondent dated 11.01.2010.



W.P. No.10176 of 2013

Further, the benefits as per the orders passed in the writ appeal were given effect to and orders were passed for regularisation of the services from the date of their initial appointment by proceedings dated 20.04.2010. Clause 6 of the order specifies that even though regularisations are made from the date of appointment, the incumbents shall not claim promotion from an anterior date as already promotions have been effected as per seniority. Assailing the impugned orders, the petitioner had preferred the above writ petition.

4. Learned counsel for the petitioner contended that already the order of the first respondent was set aside by this Court and a categorical finding was given that in view of the orders passed in writ appeal, the petitioner ought to have completed probation on 03.12.1992 and in such circumstances, respondents 4 and 5 cannot be placed as seniors to the petitioner. The present impugned order rejecting the claim is only reiterating the earlier order which was set aside. It is his further contention that when the petitioner had completed probation prior to the date when the private respondents got transferred to this Union placing them as seniors is erroneous and the seniority of the petitioner is disturbed thereby taking away her career prospects. Learned counsel further contended that in



W.P. No.10176 of 2013

view of the peculiar facts of the present case, the condition imposed in order dated 20.04.2010 in Clause 6 cannot be made applicable as the issue had already been gone into earlier and the petitioner ought to have been placed as senior to the private respondents and therefore sought for indulgence of this Court.

5. Per contra, Mr.P.Ananda Kumar, learned Government Advocate appearing for respondents 1 to 3 contended that when the private respondents were transferred to Karamadai Union, the petitioner had not completed the probation and therefore, she cannot claim seniority over and above respondents 4 and 5. He further contended that based on the seniority, both the petitioner as well as the private respondents have already been promoted to the post of Headmistress and further in view of the specific conditions, based on which the benefits of regularisation from the date of appointment as per the orders in the writ appeal were granted through the order dated 20.04.2010, the incumbents cannot claim promotion from an anterior date and as such, the claim of the petitioner had been rightly rejected and sought for dismissal of the writ petition.



W.P. No.10176 of 2013

6. Heard the rival submissions and perused the materials available on record.

7. It is not in dispute that the petitioner was appointed as a Secondary Grade Teacher on consolidated pay as on 03.12.1990. Subsequently, based on G.O.Ms.No.20 dated 08.01.1993, services of the teachers who were appointed on consolidated pay were regularised and the benefit of regularisation granted was put to challenge and ultimately, Division Bench of this Court by order dated 01.04.2008 in W.A.Nos.1585 to 1624 of 2001 settled that the teachers are entitled for regularisation from the date of initial appointment.

8. The petitioner was working in Karamadai Union and respondents 4 and 5 who were also secondary grade teachers working in Udumalpet Panchayat and Sathyamangalam Panchayat respectively got transferred to the Karamadai Union. The fourth respondent who was appointed in service on 07.07.1988 had completed her probation as on 24.08.1990 and got transferred to the Karamadai Union on 10.10.1991 and was also promoted to the post of Headmistress on 21.06.2006. The fifth respondent who got appointed in service on 04.07.1988, whose probation was declared



W.P. No.10176 of 2013

on 03.07.1990, got transferred to Karamadai Union on 06.07.1994.

She was subsequently promoted as Headmistress on 02.06.2008.

The petitioner, who was originally appointed on consolidated pay as a Secondary Grade Teacher on 03.12.1990 was regularised only on 01.09.1992 and based on which, she would have completed her probation only on 02.10.1994. As such, on the ground that the petitioner had not completed probation, respondents 4 and 5 were placed above the petitioner in the seniority list in Karamadai Union. The representation of the petitioner in this regard came to be rejected by order dated 06.06.2006.

9. The petitioner had challenged the rejection order before this Court in W.P.No.19682 of 2006 on the ground that since respondents 4 and 5 got transferred from the other Unions, they cannot be placed above the petitioner. This Court by order dated 12.01.2009, set aside the rejection order and disposed of the writ petition by directing the petitioner to send a fresh representation by referring the orders passed in W.A.Nos.1585 to 1624 of 2001 dated 11.04.2008 and the official respondents were directed to pass orders and consider the petitioner for promotion, if she is otherwise due. In the order, this Court had given a categorical finding that in view of the orders passed in the writ appeal, the petitioner having



W.P. No.10176 of 2013

been appointed on 03.12.1990 is entitled to be regularised with effect from such date and taking that into consideration, the petitioner ought to have completed her probation on 03.12.1992. If the same is taken into consideration, then respondents 4 and 5 cannot be placed as seniors to the petitioner. Paragraph 7 of the order dated 12.01.2009 in W.P.No.19682 of 2006 is extracted hereunder for easy reference:

"7. Learned counsel for the petitioner has drawn court's attention to W.A.Nos. 1585 to 1624/2001 and the batch matter filed by the Government challenging the order passed by the High Court on 30.07.1999 in favour of the Secondary Grade Teachers directing regular time scale of pay from the date of their initial appointment. By the order dated 11.04.2008, Division Bench of this Court dismissed the batch of writ appeals filed by the Government. Resultantly, the Secondary Grade Teachers who were appointed during 1990 - 91 and 1991 - 1992 on consolidated pay will have regular time scale of pay from the date of their initial appointment. The Petitioner who was appointed as Secondary Grade Teacher on consolidated pay on (03.12.1990) will have the benefit of the order of the High Court. With the dismissal of the writ appeals preferred by the Government, the Petitioner would be placed on regular time scale of pay from the date of her initial appointment (03.12.1990). If that be so the petitioner



WEB COPY



W.P. No.10176 of 2013

would have completed her probation even in December 1992 itself. In such case at the time when the Respondents 4 and 5 were transferred to Karamadai Union the Petitioner would not have been a probationer and that she would have completed her probation. In such circumstances, the Respondents 4 and 5 cannot be placed as seniors to the Petitioner."

10. Despite the above categorical finding that since the petitioner would have completed her probation as on 03.12.1992 and respondents 4 and 5 could not be placed as seniors to the petitioner, the present impugned order dated 11.01.2010 has been passed reiterating the earlier order which has been rejected. To be noted, neither the State had preferred any appeal nor the private respondents 4 and 5 who were parties to the earlier writ petition had challenged the finding of this Court.

11. From the perusal of the materials, it is evident that though the petitioner is entitled to be regularised with effect from 03.12.1990 and she would have completed her probation on 03.12.1992, the fourth respondent had already completed her probation on 24.08.1990 and got transferred to the Karamadai Union on 10.10.1991. As such, admittedly, when the fourth respondent got transferred to the Karamadai Union i.e., on



W.P. No.10176 of 2013

10.10.1991, the petitioner had not completed her probation, even taking into account the revised date of appointment, her probation falls only on 03.12.1992. However, insofar as the fifth respondent is concerned, the fifth respondent though had completed her probation on 03.07.1990, she got transferred from Sathyamangalam Union to Karamadai Union only on 06.07.1994, the date on which admittedly the petitioner had completed her probation which is as early as on 03.12.1992. Therefore, when a specific finding was rendered in the earlier orders passed in the writ petition and the first respondent was directed to pass fresh orders in light of the orders in the writ appeal and also give benefit of promotion, if she is due, the first respondent has not taken these aspects into consideration and had passed the impugned order merely stating that the petitioner since been regularised only in 1992, had completed her probation only on 31.08.1994, prior to which, respondents 4 and 5 had been transferred to Karamadai Union and therefore, they have been rightly placed as seniors. The impugned order of the first respondent in respect of fifth respondent in view of the above facts narrated, necessarily cannot be sustained and it is liable to be interfered with.



W.P. No.10176 of 2013

WEB COPY

12. Insofar as Clause 6 of the order dated 20.04.2010 wherein, when the orders of regularisation from the date of appointment as per the orders passed in the writ appeal was granted, it has been stated that the incumbents who got the benefit of regularisation from the earlier date cannot claim promotion from an anterior date as already promotions have been effected in the Union as per seniority list available. In the peculiar facts of the present case where these issues had already been adjudicated upon and the petitioner having been appointed on 03.12.1990 and completed the probation on 03.12.1992, the fifth respondent who was transferred to the Karamadai Union only on 06.07.1994 ought not to have been placed as senior to the petitioner. As referred earlier, when the finding rendered in the earlier orders passed in the writ petition has been accepted and not challenged either by the State or by the private respondents, now the benefits that are available to the petitioner cannot be taken away by simply rejecting the claim reiterating the earlier order and by referring to the impugned clause in the proceedings dated 20.04.2010.

13. Since the petitioner ought to have been placed as senior to the fifth respondent, when the fifth respondent was



W.P. No.10176 of 2013

transferred to this Karamadai Union, the career prospects of the petitioner got affected and even though the promotion was due and in the earlier writ petition, the respondents were directed to consider the petitioner for promotion, if otherwise due, the same has not been considered. In spite of the fact that there is no other impediment for the promotion of the petitioner, nothing has been reflected in the impugned orders and the fifth respondent had been promoted to the post of primary school Headmistress on 02.06.2008 only in view of the fact that she was placed as senior to the petitioner. Now, as per seniority, the petitioner got her due promotion as Headmistress as on 21.09.2011, which she ought to have got from 02.06.2008 the date on which the fifth respondent was promoted. Since the petitioner had not worked as Headmistress for the period from 2008 to 2011, when she got her actual promotion, though she is not entitled for any monetary benefits in the cadre of Headmistress, still the petitioner could be notionally promoted as Headmistress with effect from 02.06.2008, the date on which the fifth respondent was promoted instead of 21.09.2011, the date of actual promotion.

14. In view of the above deliberations, the impugned order dated 11.01.2010 is set aside and the official respondents are



W.P. No.10176 of 2013

directed to notionally (without monetary benefits) promote the petitioner as Middle School Headmistress with effect from 02.06.2008 for the purpose of calculating the pensionary benefits instead of the actual date of promotion i.e., on 21.09.2011.

15. In the result, the writ petition is partly allowed. No costs.

22.01.2025

Index:Yes/No
Neutral Citation: Yes/No
mmi

To

- 1.The Director of Elementary School
Education, DPI Campus,
Chennai.
- 2.The District Elementary Educational
Officer, Coimbatore District.
- 3.The Additional Assistant Elementary
Educational Officer,
Karamadai, Coimbatore District.



WEB COPY



W.P. No.10176 of 2013

G.ARUL MURUGAN,J.,

mmi

W.P. No.10176 of 2013

22.01.2025