



W.P.No. 12337 of 2016

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.08.2025

CORAM

THE HONOURABLE Mr.JUSTICE HEMANT CHANDANGOUDAR

W.P.No. 12337 of 2016
and W.M.P.Nos.10672 and 10673 of 2016

M.Muthuselvan

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep.by its Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Fort.St.George,
Chennai 600 009.

2.The Director of Adi Dravidar Welfare,
Chepauk,
Chennai 600 005.

3.The District and Adi Dravidar and Tribal Welfare Officer,
Trichy District,
Trichy.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.O(3)/029164/2015 dated 21.03.2016 and quash the same and consequently direct the respondent to pass orders for promoting the petitioner to the post of B.T.Assistant on par with petitioner's junior by reckoning the seniority from the date of



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appointment in the post of Secondary Grade Teacher with consequential and other attendant benefits with arrears of salary including further promotion to the post of Middle School Headmaster/High School Headmaster/PG Assistant, within a time frame to be fixed by this Court.

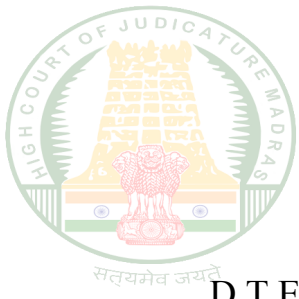
For Petitioner : Mr.S.Nedunchezhiyan

For Respondents : Mr.L.S.M.Hasan Faizal
Additional Government Pleader

ORDER

The captioned writ petition has been filed for issuance of a Writ of Mandamus, assailing the order dated 21.03.2016 issued by the second respondent, and seeking a consequential direction to the respondents to promote the petitioner to the post of B.T. Assistant on par with his junior, by reckoning his seniority from the date of appointment to the post of Secondary Grade Teacher, together with all consequential and attendant benefits, including arrears of salary.

2. The petitioner asserts that he obtained a Bachelor of Science degree in Chemistry in the year 1988, a Master's degree in the year 2004, and a Bachelor of Education degree in the year 1991. When vacancies in the post of Secondary Grade Teacher in the Adi Dravidar Welfare Department were sought to be filled up, qualified candidates possessing



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D.T.Ed were not available. Accordingly, candidates possessing graduate degrees were sponsored through the Employment Exchange in the year 1997 to fill up the backlog vacancies in the said post. The petitioner, being a qualified B.Ed degree holder, was appointed as a Secondary Grade Teacher in the Adi Dravidar Welfare Department by order dated 03.11.1997, along with nine others. The petitioner's appointment, along with others, was made pursuant to G.O.Ms.No.63, dated 01.04.1997, subject to certain terms and conditions.

3. The petitioner further contends that nine similarly placed persons, who were appointed along with him, were promoted to the post of B.T. Assistant on 23.02.2000. However, their promotions were subsequently withdrawn by proceedings dated 13.10.2000 on the ground that their promotions were irregular. Aggrieved thereby, the said nine teachers filed Original Application No.7989 of 2000 before the Tribunal, which granted an order of interim stay. The matter was subsequently transferred to this Court and re-numbered as W.P.No.41561 of 2006. This Court, by order dated 23.12.2010, directed the respondents to pass appropriate orders after issuing notice to the said teachers and affording



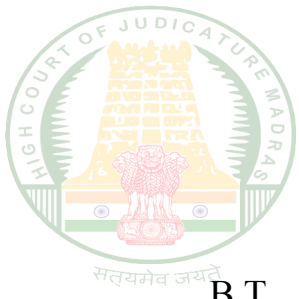
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them an opportunity to submit their explanation, in accordance with law, if required.

4. Pursuant thereto, notices were issued to the nine teachers, and after considering their explanations, orders were passed accepting their contentions. Consequently, the second respondent, by order dated 09.10.2015, directed the third respondent to pass appropriate orders for regularising their services from the date of their promotion to the post of B.T. Assistant. Pursuant thereto, the services of the said nine teachers were regularised in the promoted post of B.T. Assistant in the years 2000 and 2004. In the meantime, the petitioner was promoted as B.T. Assistant only on 03.10.2008, and his services were regularised in the said post with effect from that date.

5. The petitioner thereafter submitted a representation seeking promotion as B.T. Assistant on par with his junior, one M. Shanmuga Sundaram, who was initially appointed as a Secondary Grade Teacher on 04.03.1998 and was promoted to the post of



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B.T. Assistant on 02.12.2004. However, the said representation was rejected on the ground that his junior, M. Shanmuga Sundaram, had been appointed on compassionate grounds, and therefore, the petitioner could not be extended the same benefits.

6. Learned counsel for the petitioner submitted that the petitioner is equally entitled to the promotion to the post of B.T. Assistant with effect from the date on which his junior was promoted to said post. It was contended that the denial of such parity amounts to hostile discrimination and is violative of Article 14 of the Constitution of India.

7. Per contra, learned counsel for the respondents submitted that the petitioner was appointed to the post of Secondary Grade Teacher in the Adi Dravidar Welfare Department pursuant to G.O.Ms.No.63, Adi Dravidar and Tribal Welfare Department, dated 01.04.1997. As per the express conditions stipulated in the said Government Order, candidates appointed under the scheme were not entitled to claim promotion to the post of B.T. Assistant. Therefore, in the absence of a statutory or vested right, the petitioner cannot seek promotion to the post of B.T. Assistant



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on par with his juniors.

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8. This Court has carefully considered the rival submissions advanced by the learned counsel for the parties and perused the materials placed on record.

9. It is not in dispute that the petitioner, along with nine others, was appointed as a Secondary Grade Teacher pursuant to G.O.Ms.No.63, dated 01.04.1997. One of the conditions contained in the said Government Order stipulated that such appointees would not be entitled to claim promotion to the post of B.T. Assistant. However, the records reveal that nine similarly placed persons, appointed under the very same Government Order, were promoted to the post of B.T. Assistant and their services were duly regularised in the said post in the years 2000 and 2004, respectively. Likewise, one M. Shanmuga Sundaram, who was appointed as a Secondary Grade Teacher on 04.03.1998 on compassionate grounds, was promoted as a B.T. Assistant on 02.12.2004.

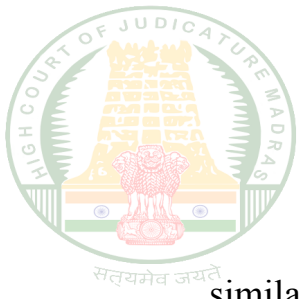


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10. Though the Government Order dated 01.04.1997 expressly stipulates that candidates appointed thereunder shall not be entitled to claim promotion to the post of B.T. Assistant, the fact remains that the respondents themselves have subsequently extended the benefit of such promotion to petitioner and other similarly situated persons who were appointed under the very same Government Order. Once the respondents have consciously relaxed or deviated from the rigour of the said stipulation, the petitioner cannot be non-suited for promotion with effect from the date on which his junior was promoted, merely on the ground that such junior had been appointed on compassionate grounds and that no such restrictive clause was contained in his appointment order. The distinction sought to be drawn by the respondents, premised solely on the nature of the appointment of the junior, is unsustainable in law, inasmuch as it offends the settled principles of equality and non-arbitrariness enshrined under Articles 14 and 16 of the Constitution of India.

11. The edifice of service jurisprudence rests upon the principles of equality, fairness, and non-discrimination. The denial of benefits while extending such benefits to his juniors and other nine



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similarly situated persons , is manifestly arbitrary, legally unsustainable, and violative of Article 14 of the Constitution of India. Accordingly, the impugned order of the second respondent cannot be sustained in the eye of law. The petitioner is entitled for promotion to the post of B.T. Assistant on par with his junior, namely M. Shanmuga Sundaram, with all consequential benefits.

12. In the result, this Court passes the following order:

- (i). The writ petition stands allowed. The impugned order dated 21.03.2016 bearing Na.Ka.No.O(3)/029164/2015 issued by the second respondent is hereby quashed.
- (ii). The respondents are directed to promote the petitioner to the post of B.T. Assistant with effect from 02.12.2004, i.e., the date on which his junior, namely M. Shanmuga Sundaram, was promoted , and to extend to him all consequential and attendant benefits, including arrears of salary, from the said date.
- (iii). The aforesaid exercise shall be completed within a period of three (3) months from the date of receipt of a copy of this order.

Consequently connected miscellaneous petitions are closed. There shall



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be no order as to costs.

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Index : Yes/No

Internet : Yes

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To

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Adi Dravidar and Tribal Welfare Department,
Secretariat, Fort.St.George,
Chennai 600 009.

2.The Director of Adi Dravidar Welfare,
Chepauk,
Chennai 600 005.

3.The District and Adi Dravidar and Tribal Welfare Officer,
Trichy District,
Trichy.

HEMANT CHANDANGOUDAR, J.



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