



W.P.No.6466 of 2008

WEB COPY **IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 25.03.2025

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.6466 of 2008

N.Ramachandran

... Petitioner

Vs.

- 1.The State of Tamilnadu,
Rep by its Secretary to Government,
Higher Education Department,
Fort St.George,
Chennai – 600 009.
- 2.The Director of Collegiate Education,
Chennai – 600 006.
- 3.Tmt.C.Malliga
Bursar
Government Arts College,
Vellore District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in G.O.Ms.No.48 Higher Education G 2 Department dated 28.02.2008 and GO Ms.No.49 Higher Education G 2 Department dated 28.02.2008 and quash the same and direct the



W.P.No.6466 of 2008

WEB COPY

respondent to include the name of the petitioner in the panel for appointment to the post of Bursar at Sl No.4 over and above 3rd respondent and consequently promote the petitioner to the post of Bursar as per seniority and in accordance with rules issued in GO Ms.No.511 dated 02.03.1977.

For Petitioner : Ms.T.Divya
for Mr.S.Selvathirumurugan

For Respondents : Mr.C.Jayaprakash
Government Advocate
for R1 and R2
R3 Dismissed vide order dated 20.11.2024

ORDER

This Writ Petition has been filed by the Petitioner for the following relief:-

“to call for the records on the file of the first respondent in G.O.Ms.No.48 Higher Education G 2 Department dated 28.02.2008 and GO Ms.No.49 Higher Education G 2 Department dated 28.02.2008 and quash the same and direct the respondent to include the name of the petitioner in the panel for appointment to the post of Bursar at Sl No.4 over and above 3rd respondent and consequently promote the petitioner to the post of Bursar as per seniority and in accordance with rules issued in GO Ms.No.511 dated 02.03.1977.”



W.P.No.6466 of 2008

WEB COPY

2. The Petitioner was working as a Superintendent with the Government Arts College, Namakkal which falls within the jurisdiction of the 2nd Respondent. The case of the Petitioner is that the Petitioner was eligible to be promoted to the next higher post of BURSAR, as the Petitioner had passed the Account Test Part I, District Office Manual Test, Deputy Inspectors Test Part I & II and Statistics.

3. It is the specific case of the Petitioner that the Respondents have over looked the seniority of the Petitioner and promoted the 3rd Respondent as a BURSAR, even though the Petitioner was eligible for promotion to the post of BURSAR.

4. The dispute pertains to the Panel for Promotion that was prepared with the crucial date on 28.02.2008, in which, the name of the Petitioner was not included. The General and the Special Rules vide G.O.Ms.No.511 dated 21.03.1977 applicable to the holders of the permanent posts in “Clause VII – section C – Miscellaneous posts” in the Tamilnadu Educational Service was amended vide G.O.Ms.No.363,



W.P.No.6466 of 2008

WEB COPY

Higher Education, dated 08.09.2008 and G.O.Ms.No.364, Higher Education, dated 08.09.2008, in exercise of power conferred under Article 309 of the Constitution of India.

5. The learned Government Advocate for the 1st and 2nd Respondents submit that the Impugned Order issued in G.O.Ms.No.48, Higher Education (G2) Department, dated 28.02.2008 and G.O.Ms.No.49, Higher Education (G2) Department, dated 28.02.2008 are legally valid and sustainable in the facts of the present case and therefore prayed for the dismissal of this Writ Petition.

6. I have considered the arguments advanced by the learned counsel from either side and have also perused the materials available on record.

7. The crucial date for preparation of the Panel for Promotion to the post of BURSAR was on 28.02.2008. At that point of time, Rules that were governing promotion was under G.O.Ms.No.511 dated 02.03.1977 which was specifically issued for the purpose of promotion to



W.P.No.6466 of 2008

WEB COPY

the post of BURSAR in Government Arts College, which was in adhoc Rules framed under Article 309 of the Constitution of India.

8. The aforesaid Rules in G.O.Ms.No.511 dated 02.03.1977 contemplates appointment by way of Transfer to the post of BURSAR among the holders from the following categories of posts:-

“(i)Junior Accounts officer, Sub-Treasury officers, Grade I, Assistant Treasury officers and Accounts Grade I in the Pay and accounts office in the Department of Treasury and accounts; and

(ii)Section officers in the Departments of Secretariat including Finance (CCB) (Category 1) Expect Law Department; and

(iii)Inspectors of Local Fund Accounts; and

(iv)Superintendents and Managers in the department of Collegiate Education and

(v)Superintendents in the Department of School Education.”

9. The method of appointment to the post of BURSAR was also prescribed in the aforesaid Government Order in G.O.Ms.No.511 dated 02.03.1977 are as under:-

“(b)Appointment to the post shall be made in the following order;

out of every ten Vacancies, five vacancies shall be reserved for the staff of the Collegiate Education Department and the remaining five vacancies shall be



W.P.No.6466 of 2008

WEB COPY

shared equally by the staff of the following departments:-

- 1.Treasuries and Accounts Department
- 2.Finance Department (including Central Cash Bureau) of the Secretariat.
- 3.departments of Secretariat (except Finance and Law)
- 4.Local fund audit Department
- 5.School Education Department.”

10. The requisite qualifications to the post of BURSAR that are prescribed under Rule 4 of the aforesaid Rules vide G.O.Ms.No.511 dated 02.03.1977 are as under:-

“4.Qualification: No person shall be eligible for appointment to the posts, unless he possesses the following qualification,

(i)Must have passed the Accounts Test for Subordinate officers, Parts I and II

(ii)Section Officers from the Finance Department of the Secretariat must have, in addition, undergone accounts Training.

Provided that it shall not be necessary for the persons for Collegiate/Education department, to pass the Accounts test, for Subordinate officers Part II at the time of their appointment and they should pass the test within the period of their probation.”

11. The proviso to Rule 4 of the Rules in the aforesaid Government



W.P.No.6466 of 2008

WEB COPY

Order makes it clear that it would not be necessary for the persons for Collegiate/Education Department, to pass the Accounts test for Subordinate Officers Part – II, at the time of their appointment and that they should pass the said test within the period of their probation.

12. Thus, there was no impediment for considering the name of the petitioner for promotion to the post of BURSAR. Therefore, the name of the Petitioner should have been considered for promotion subject to seniority. This aspect has not been considered by the Respondents while preparing the Impugned Government Order dated 28.02.2008 for promotion to the post of BURSAR.

13. The amendment to G.O.Ms.No.511 dated 02.03.1977 vide G.O.Ms.No.363 and G.O.Ms.No.364, Higher Education Department, dated 08.09.2008 cannot stand against the Petitioner, as the said amendment is after crucial date i.e., on 28.02.2008, based on which the disputed Panel for Promotion was prepared by the 2nd Respondent.

14. Therefore, there shall be a direction to the 1st and 2nd



W.P.No.6466 of 2008

WEB COPY

Respondents to re-consider the seniority of the Petitioner for the purpose of promotion in the light of G.O.Ms.No.511 dated 02.03.1977 as it stood as on 28.02.2008, subject to the Petitioner possessing the requisite qualification for promotion to the post of BURSAR. The name of the petitioner may be included in the Panel for Promotion and the Petitioner may be promoted, if the Petitioner is otherwise eligible for promotion in terms of G.O.Ms.No.511 dated 28.02.2008.

15. The above exercise shall be carried out by the 1st and 2nd Respondents, within a period of six weeks from the date of receipt of a copy of this order.

16. In case, the Petitioner is eligible for such notional promotion, the Respondents shall re-work the pensionary and terminal benefits of the Petitioner within a period of six weeks from the date of receipt of a copy of this order.



W.P.No.6466 of 2008

WEB COPY

17. This Writ Petition stands disposed of with the above observations. No costs.

25.03.2025

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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To

- 1.The State of Tamilnadu,
Rep by its Secretary to Government,
Higher Education Department,
Fort St.George,
Chennai – 600 009.
- 2.The Director of Collegiate Education,
Chennai – 600 006.

C.SARAVANAN, J.



WEB COPY



W.P.No.6466 of 2008

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W.P.No.6466 of 2008

25.03.2025