



WP NO. 28513 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-02-2025

CORAM

THE HONOURABLE MRS JUSTICE V.BHAVANI SUBBAROYAN

WP NO. 28513 of 2023

and W.M .P.No.28062 of 2023

M.Lawrence

.

.....Petitioner

Vs

1.The Director of School Education,
DPI Campus,
Chennai 600 006.

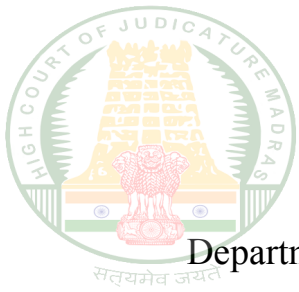
2.The Chief Educational Officer
Kancheepram

3.The District Educational Officer,
Kancheepram

.....Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents to include the name of the petitioner in the panel for promotion to the post of Higher Secondary Headmaster as on 01.01.2023 by taking into consideration the last date of the examination i.e., 16.12.2022 for the Tamil Nadu School Education

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Department Administrative Test Paper I and Paper II as the date for the purpose of qualification and not the date of declaration of the results of the said examination and accordingly promote the petitioner to the post of Higher Secondary Headmaster with all consequential service and monetary benefits of the petitioner on par with his Juniors.

For Petitioner:

Mrs.Dakshayani Reddy
Senior Counsel
for M/s.S.Suneetha

For Respondents: Mr.S.Prabhakaran for R1 to R3
Government Advocate (Education)

ORDER

This petition has been filed to direct the respondents to include the name of the petitioner in the panel for promotion to the post of Higher Secondary Headmaster as on 01.01.2023 by taking into consideration the last date of the examination i.e., 16.12.2022 for the Tamil Nadu School Education Department Administrative Test Paper I and Paper II as the date for the purpose of qualification and not the date of declaration of the results of the said examination and accordingly promote the petitioner to the post of Higher Secondary Headmaster with all consequential service and monetary benefits of the petitioner on par with his Juniors.

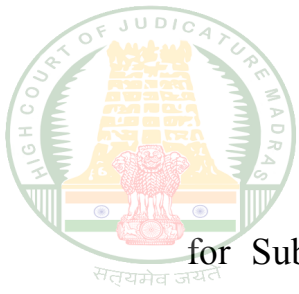


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2. The case of the petitioner is that the petitioner was originally appointed as Secondary Grade teacher on 10.09.1986 and subsequently he was promoted to the post of BT Assistant on 17.10.2000 and further promoted to the post of High School Headmaster on 04.09.2015. The next avenue for promotion is to the post of higher secondary Headmaster, which is comprised in Tamil Nadu Higher Secondary Educational Service and the qualification prescribed for the said post was Master's degree of a University along with BT or B.Ed and 10 years of experience. In respect of department tests are concerned, a pass in Account test for Executive officer or Account test for Subordinate Officer for Part I and II. As per the erstwhile rule, the petitioner was fully qualified for promotion to the Higher Secondary Headmaster.

(ii). Subsequently, the New Service Rules were framed for the Tamil Nadu Higher Secondary Service vide G. O.Ms. No 14 dated 30.01.2020 whereby, the three tests are mandated for the purposes of promotion to the post of Higher Secondary Headmaster viz., (i). Tamil Nadu Government Office manual test, (ii). Account Test for Executive Officer or Account test



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for Subordinate Officers Part I and (iii). Tamil Nadu School Education

Administrative Test paper I and Paper II. The petitioner passed the Executive Officer Test as early as in the year 2006 and the Office Manual test in the year 2005. So far as the School Education Department Administrative Test Paper I and Paper II are concerned, they were only introduced for the first time vide G.O Ms. No. 14 dated 30th January 2020. After the introduction of the Rule in March 2020, the entire country was seized by the Covid Pandemic and the tests were not conducted during the subsistence of Covid Pandemic. Therefore, for the panel year 2021-2022 and 2022-2023 exemption was granted for the said examination.

(iii). The said exams were conducted in May 2022 and thereafter in December 2022 of 16.12.2022. The petitioner wrote the examination and he was declared pass vide the Government Gazette published by the Service Commission dated 24.03.2023. Pursuant to the same, the promotion panel for inclusion of the High School Headmasters who are qualified as on 1.1.2023 for promotion to the post of Higher Secondary Headmaster was called for by the Director of School Education and accordingly the Chief Educational Officer in turn sought for names of all the qualified candidates from various



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District Educational Officers, and since the petitioner being the senior most High School Headmaster, his name was included by the District Educational Officer, Kancheepuram in the proceedings dated nil July 2023 and was forwarded to the Chief Educational Officer.

3. The learned counsel for the petitioner would submit that the petitioner's name was initially included in the list for counselling scheduled on 18.08.2023, 19.08.2023 and 20.08.2023. However, on 14.08.2023, a new panel was published, removing the petitioner's name. The petitioner has objected the same, highlighting that he had appeared for the Administrative Test on 16.12.2022, with results declared in March 2023. At the time of preparation of panel, the petitioner was fully qualified. He further submitted that the exclusion from the panel, despite having eligibility, the respondents violated the principles laid down under Fundamental Rule 26, which states that the day after the last exam day should be considered for confirming benefits, not the result declaration date. Therefore, this Court may issue directions to the respondents authorities to promote the petitioner to the post of Higher Secondary Headmaster will all consequential service and monetary benefits.



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4. In support of his contention, the learned counsel for the petitioner relied upon the judgment of the Hon'ble Division Bench of this Court in the case *The Director of Elementary Education, College Road, Chennai & another Vs. K.Nedumaran in W.a.No. 803 of 2013, dated 27.02.2015, reported in ([2015] SCC Online Mad 4859)*, wherein the Hon'ble Division Bench held that the passing of an examination would relate back to the date of examination and not the date of declaration of result. The relevant portion is extracted below;

“8. But the above argument, as rightly pointed out by the learned Judge is contrary to the Ruling [2] under Fundamental Rule 26(a), which reads as follows;

"(2) In cases where the passing of an examination or test confers on a Government servant the title to any right, benefit or concession, such title should be deemed to have accrued on the day following the last day of the examination or test which he passed. In cases where the examination or test can be passed in instalments, the title to the right, benefit or concession will be deemed to have accrued on the day following the last day of the examination in the subject or subjects in which he has passed.

[G.O.No.1446, Public (Services), dated 1st May 1934.]"



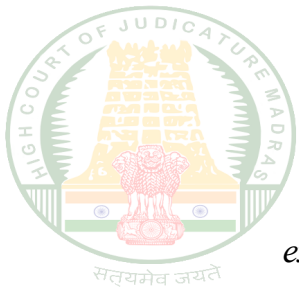
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9. It has been held in a number of decisions of this Court, that the passing of an examination would relate back to the date of examination and not the date of declaration of results. The dates on which the Departmental Tests conducted in this case were 27.12.2000 and 28.12.2000. Therefore, if the Department took three months' time to declare the results, which fell on the next day, to the date of crucial date for promotion, the respondent cannot be asked to take the blame. Therefore, the judgment of the learned Judge is in tune with the Rule position and we see no reason to interfere with the same. Hence, the writ appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. “

5. Learned counsel also relied upon the judgment in the case of **K.Pandiyam vs. Director of Elementary Education and others** reported in **2022 SCC Online Mad 4371**, wherein it has been stated as follows:

"6. At the outset, by the earlier order of this Court in W.P.No.18339 of 2010, as confirmed by the Division Bench in W.A.No.1636 of 2012, the law regarding the matter is settled in which this Court has categorically declared that once the person obtains the qualification, the date of obtaining the qualification will not be the date of declaration of results or the date of entering the same in the service register but the date of writing the last



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examination. Admittedly, the writ petitioner wrote the last examination on 23.10.2010. Therefore, once the results are declared on 05.10.2021, the same would date back to 23.10.2020. The crucial date for the promotion in the respective year is 01.01.2021 and therefore as on the crucial date, the writ petitioner has obtained the qualification. The only contention made by the respondents is that before panel was prepared in the month of November, the petitioner's qualification was not entered in the service register. It is seen that even the panel was prepared only on 15.11.2021. By the said time, on 05.10.2021 itself, the results were declared and the writ petitioner had informed about the same to the respondents."

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

7. The contention of the petitioner is that the petitioner had passed the Administrative Test conducted by the Public Service Commission on 16.12.2022, and the results were declared in March 2023. Therefore, as on the date of the initial preparation of the panel by the District Educational Officer, Kancheepuram, in July 2023, the petitioner was fully qualified. Hence,



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excluding the petitioner's name by the 1st respondent in the subsequent proceedings dated 14.08.2023 is a clear violation of the principles laid down under Fundamental Rule 26, which mandates that for the purpose of confirming any benefit to a Government employee, the day after the last day of the examination should be taken into consideration, not the date of declaration of the results.

8. Considering the facts and circumstances of the case and the decision of the Hon'ble Division Bench of this Court *cited supra*, this Court has come to the conclusion that the petitioner is fully qualified for promotion to the post of Higher Secondary Headmaster as on the date of preparation of initial panel prepared by the District Educational Officer, Kancheepuram/3rd respondent in the month of July 2023. Therefore, this Court directs the 1st respondent to consider the petitioner for promotion to the post of Higher Secondary Headmaster as on the date of preparation of panel on 01.01.2023 and grant all consequential service and monetary benefits by placing the petitioner at the appropriate place in the seniority list, and pass necessary orders within period of eight (8) weeks from the date of receipt of a copy of



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this order.

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9. With the above directions, the writ petition is allowed. No costs.

Consequently connected miscellaneous petition is closed.

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Internet: Yes/NO

Speaking order: Non-speaking order

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