



W.P.No.30518 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2025

Coram

THE HON'BLE MR JUSTICE C.V.KARTHIKEYAN

W.P.No.30518 of 2024 &
WMP.Nos.33131 & 33133 of 2024

P.Akila

... Petitioner

-Versus-

1.The Director of Elementary Education,
Perasiriyar Anbazhagan Kalvi Valagam,
College Road, Chennai – 600 006.

2.The District Educational Officer (Elementary),
Hosur Educational District,
Krishnagiri District.

3.The Block Educational Officer-I,
Thally Union,
Krishnagiri District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the third respondent in Na.Ka.No.815/A2/2021 dated 19.01.2022 and to quash the same and consequently, directing the respondents to promote the Petitioner to the post of Primary School Headmaster on par with juniors promoted as on 14.02.2022



W.P.No.30518 of 2024

based on 2021 panel, with all consequential and other attendant benefits, within a time frame to be fixed by this court.

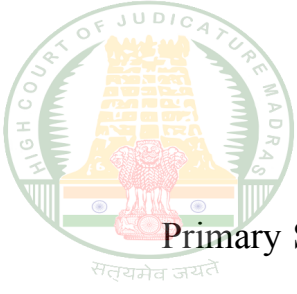
For Petitioner : Mr.G.Sankaran, Senior Counsel

*For Respondent : Mrs.S.Mythreye Chandru,
Special Government Pleader*

ORDER

This writ petition has been filed in the nature of a Certiorarified Mandamus calling for the records relating to the proceedings issued by the third respondent, Block Educational Officer-1 at Krishnagiri in proceedings Na.Ka.No.815/A2/2021 dated 19.01.2022 and quash the same and direct the respondents to promote the petitioner to the post of Primary School Head Master on par with her juniors on 14.02.2022 based on the panel effective from 2021 and also grant consequential and other attendant benefits.

2. In the affidavit filed in support of this writ petition, it had been contended that the petitioner had qualified herself with Diploma in Teacher Education and also qualified in Tamil Eligibility Test and was selected and appointed as Secondary Grade Teacher in Elementary Education on 17.12.2012. She was posted as Secondary Grade Teacher in Panchayat Union



W.P.No.30518 of 2024

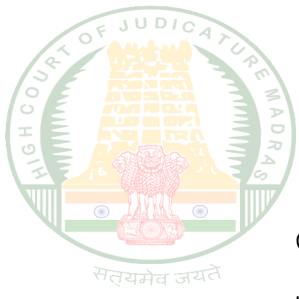
Primary School, Pyarakapalli at Hosur block and joined on the same date. She

was then transferred to PUMS, Sarakapalli, Thally Block in the same district on 24.08.2015. It had been further contended that based on block seniority, the names of the eligible candidates who were working as Secondary Grade Teachers, panel would be prepared on the first of January every year for the promotion to the post of Primary School Head Master.

3. The crucial date for examining those who are eligible to be promoted and to be included in the panel is the first of January every year. Owing to administrative reasons that particular date would be extended when the actual counselling is done and when the persons who are going to be promoted are determined, which would be on a subsequent date.

4. In the year 2018, that particular subsequent date was **17.12.2018** when the counselling was called for promotion to the post of Primary School Head Master and subsequent posting to a particular school. The petitioner was in an advanced stage of pregnancy on 17.06.2018 and therefore, she had issued a letter which I would extract in entirety:

“நான் மேலே குறிப்பிட்டுள்ள பள்ளியில் பணி புரிந்து வருகிறேன். நான்
01.01.2018 அன்றைய நடுநிலைப்பள்ளித் தலைமையாசிரியர்/பட்டதாரி ஆசிரியர் /



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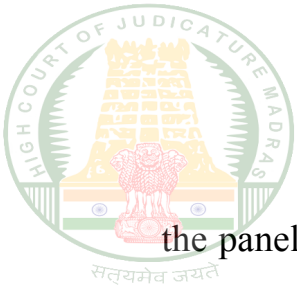


W.P.No.30518 of 2024

தொடக்கப்பள்ளி தலைமையாசிரியர் பதவி உயர்வுக்கான தேர்ந்தோர் பட்டியலில்வரிசை எண் 1 இல் தகுதி பெற்றுள்ளேன். 17.06.2018 அன்று இணையதளம் மூலம் நடைபெற்ற பதவி உயர்வு கலந்தாய்வில் கலந்து கொண்டேன் என்றும், எனது பெயரை நடுநிலைப்பள்ளித் தலைமையாசிரியர் / பட்டதாரி ஆசிரியர் / தொடக்கப்பள்ளித் தலைமையாசிரியர் பதவி உயர்வை முன்றாண்டுகளுக்கு தற்காலிகமாக உரிமைவிடல் செய்கிறேன் எனவும் அதனை ஏற்றுக் கொண்டு ஆணை வழங்குமாறு பணிவுடன் கேட்டுக் கொள்கிறேன்.”

5. Admittedly, this particular letter was issued on 17.06.2018 and received by District Educational Officer, Thenkanikottai on 20.06.2018. By this letter, the petitioner had voluntarily stated that she relinquishes being considered for promotion for a period of three years. Thereafter, the panel for subsequent promotion to the post of Primary School Head Master opened up on the first day of 2019, 2020 and again in the year 2021. the petitioner claims that her name should have been included in the panel which was prepared for the year 2021 namely on first of January 2021. Complaining that it was not so included, she had given a representation, which was rejected leading to the passing of the impugned order which is now challenged before this court.

6. In the impugned order, it had been stated that the panel was prepared on 01.01.2021 and on that particular date, the three year period on and from 17.06.2018 had not expired and therefore, the petitioner could not be placed in



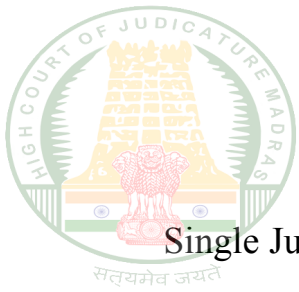
W.P.No.30518 of 2024

the panel, which was prepared on 01.01.2021. It had therefore been stated that

the petitioner's name could be included in the panel which could be prepared on 01.01.2022. Challenging this particular order, as stated above, the writ petition has been filed.

7. The learned Senior Counsel appearing on behalf of the petitioner argued that there is a policy in the impugned order that the relinquishment is for three particular panel years namely, the panel which was drawn on 01.01.2018, the panel which was drawn on 01.01.2019 and the panel which was drawn on 01.01.2020 and since three panel years have expired, the petitioner should be termed as eligible to be included in the panel which was drawn on 01.01.2021 and should have been considered for the promotion to the post of Primary School Head Master as and when the counselling is open up for the panel which was drawn on 01.01.2021.

8. The learned Senior Counsel in this regard placed reliance on an order of the learned Single Judge of this Court in WP(MD).No.2649 of 2011 dated 15.03.2012, ***N.Murali v. The Principal Secretary, Commissioner of Treasuries and Accounts, Chennai and another.*** The order of the learned



Single Judge is extracted below:

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“2. The case of the petitioners is that they joined as Junior Assistants on 27/11/1986 and 23/6/1984 respectively in the District Treasury, Tiruchirapalli and presently working as Selection Grade Accountant from 2/6/2004 and 5/10/2003 respectively in the office of the second respondent. The petitioners have relinquished their claims for promotion for three years by submitting individual representations for the panel 2006 - 2007, 2007 - 2008 and 2008 - 2009 and the crucial date for preparation of panel was on 1/4/2006. According to the petitioners, three years period expired in the year 2008 - 2009 and they are entitled to be considered for inclusion in the panel from 1/4/2009.

3. The petitioners request was rejected by the impugned order dated 8/10/2010, wherein it is mentioned that the petitioners having submitted their relinquishment letter on 26/4/2006, three year period can be counted only from that date and not from 1/4/2006.

4. According to the learned counsel for the petitioners, the said stand taken by the respondents cannot be accepted in view of the Rule position as well as the relinquishment letter given by the petitioners. Petitioners have given up their right for promotion for 2006 - 2007, 2007 - 2008 and 2008 and 2008 - 2009 i.e., from 1/4/2006.



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W.P.No.30518 of 2024

Three year period having been expired on 31/3/2009, the petitioners are entitled to get their names included in the panel for promotion in terms of Rule 47 (2) of the Tamil Nadu State and Subordinate Service Rules. The said Rule reads as follows:-

"Relinquishment of a right or privilege for a temporary period shall be accepted if it is made for a period of not less than three years subject to the condition that after the expiry of the said period, the claim of the right or privilege relinquished will be with reference to the state of affairs that exist on the date of expiry of period of relinquishment and without restoration of original seniority. If relinquishment of right or privilege is made permanently and is accepted subsequent claim of the relinquished rights or privileges shall not be entertained."

5. Applying the said Rule, the impugned order is set aside and the second respondent is directed to consider the names of the petitioners for inclusion in the panel from 1/4/2009 and pass fresh orders. The revised order is directed to be passed by the second respondent within a period of six weeks from the date of receipt of a copy of this order.



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W.P.No.30518 of 2024

6. *With the above direction, this writ petition is disposed of. No costs.*”

9. Learned Senior Counsel placed further reliance on yet another order dated 12.03.2024 passed by a learned Single Judge in ***W.P.(MD).No.7863 of 2023, P.Parameswaran vs. Directorate of Agriculture, Chepauk, Chennai*** wherein the learned Single Judge had held as follows:

“4. The learned counsel for the petitioner submitted that the petitioner has completed three years period both by virtue of date of his relinquishment and also as per the expiry of three panel years and the respondents ought to have included his name in the impugned panel for promotion and granted him promotion to the post of Assistant Seed Officer. He further submitted that the petitioner had relinquished promotion temporarily on 29.01.2020 for the promotion of panel year 2019~2020 for which the crucial date had been 01.04.2019. Therefore, the three years period should have been reckoned by the respondents as three panel years, that is, 2019~2020 (crucial date is 01.04.2019), 2020~2021 (crucial date is 01.04.2020), 2021~2022 (crucial date is 01.04.2021). If the date of relinquishment is taken as criteria, on 28.01.2023 the petitioner had completed three years of service and therefore, he is entitled for inclusion in the panel as on



WEB COPY



W.P.No.30518 of 2024

28.01.2023 and on that basis the petitioner pressed for allowing the writ petition.

5. Per contra, the respondent has filed a counter affidavit and the learned Additional Government Pleader Mr. C. Baskaran submitted that the petitioner-s name was included in the promotion panel for the year 2019~2020. Consequent to the same, he was promoted as Assistant Seed Officer in Ramanathapuram district. But he relinquished his right over promotion on 29.01.2020, it ends on 28.01.2023. Accordingly, on the crucial date, that is, 01.04.2022 for the panel year 2022~2023 the period of relinquishment did not expire. Based on the said factual matrix the petitioner would be included for the panel year 2023~2024 (crucial date 01.04.2023). He would be eligible to be included in the panel as on 01.04.2023, that is, for the year 2023~ 2024 and the above said panel has not been drawn so far and on that basis, he pressed for dismissal of the writ petition.

6. The petitioner-s request was rejected by the impugned order dated 24.03.2023, in which the petitioner-s name has been included in the Annexure~II which contained the names of individuals whose names were not included for the reason of relinquishment. According to the learned counsel for the petitioner, the stand taken by the



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W.P.No.30518 of 2024

respondents cannot be accepted in view of the rule position as well as the relinquishment letter given by the petitioners. The petitioner has given up their right for promotion for the panel year 2019~2020 for which the crucial date was 01.04.2019. The relinquishment letter seeking temporary relinquishment of promotion was submitted on 29.01.2020. Thus, the petitioner had given up his right for promotion for the year 2019~2020, 2020~2021 and 2021~2022. Therefore, it is clear that the petitioner had relinquished his right of promotion temporarily from 01.04.2019 till 01.04.2022. Three years period having expired on 31.03.2022, the petitioner is entitled to get his name included in the panel for promotion for the year 2022~2023, as on 01.04.2022, in terms of Rule 47 (2) of the Tamil Nadu State and Subordinate Service Rules. For the sake of clarity the said rule which reads as follows is extracted:

?Relinquishment of a right or privilege for a temporary period shall be accepted if it is made for a period of not less than three years subject to the condition that after the expiry of the said period, the claim of the right or privilege relinquished will be with reference to the state of affairs that exist on the date of expiry of the period of relinquishment and without restoration of original seniority. If relinquishment of right or privilege is made



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W.P.No.30518 of 2024

permanently and is accepted subsequent claim of relinquished rights or privileges shall not be entertained.?

7. Applying the said rule, the impugned order is set aside and the respondent is directed to consider the name of the petitioner for inclusion in the panel from 01.04.2022 and pass fresh orders. The revised order is directed to be passed by the respondent within a period of six (6) weeks from the date of receipt of copy of this order.

8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.”

10. In the counter affidavit, the respondents had placed reliance on the order of a learned Single Judge of this Court in W.P.No.4538 of 2022 by order dated 17.02.2022, wherein it had been observed and held as follows:

“10. As per the said act, the relinquishment of right for a temporary period shall be accepted if it is made for a period of not less than three years. The petitioner had relinquished his right for promotion w.e.f 02.07.2018 and the same has been accepted by the Government vide G.O



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W.P.No.30518 of 2024

(D) No. 364, Health and Family Welfare (A1) Department, dated 22.02.2019. Hence, as per the above act provision, the period of temporary relinquishment of the petitioner begins from 02.07.2018 and ends on 01.07.2021.

11. The learned Additional Government Pleader has brought to the notice of this Court the ruling 8(e) of Tamil Nadu Medical Services Special Rule Par ~II Branch ~I Medical, wherein it is stated that the crucial date for selection of appointment to any post by recruitment by transfer or promotion shall be the 15th March of every year.

12. In the case on hand, the 1st & 2nd respondents have prepared the panel for the post of Associate Professor in the specialty of Plastic Surgery for the year 2020~21 and the crucial date for preparation of the said panel is 15.03.2020. Since the temporary relinquishment tendered by the petitioner ends only on 01.07.2021, the petitioner's name was not considered by the Government in the panel approved for the year 2020~2021 vide G.O.(D) No. 303, Health and Family Welfare (A1) Department, dated 23.02.2021.

13. Relinquishment of promotion was voluntary and not at the instance of the officials. The petitioner himself stated that due to some unavoidable circumstances, he was constrained to give a letter of relinquishment. This being the factum established, the petitioner has no right to claim



WEB COPY



W.P.No.30518 of 2024

the promotion for a period of three years from the date of his relinquishment and the promotion now sought for the year 2020~2021, with reference to the counselling conducted during the relinquishment period, cannot be granted as the act clearly insists the -date- i.e the crucial date. Therefore, as per Section 57(1) of Tamil Nadu Government Servants (Condition of Service) Act 2016, the petitioner is not eligible for inclusion in the panel 2020~2021 as claimed by the petitioner. Since the relinquishment period ends only on 01.07.2021, the petitioner will be eligible for promotion to the post of Associate Professor of Plastic Surgery in the panel for the year 2022~23 as per the said Act. This Court finds no valid grounds to interfere with the impugned order passed by the 2nd respondent dated 14.02.2022 and accordingly, the writ petition is liable to be dismissed.

14. In the result, the writ petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.”

11. It had been further stated in the counter affidavit that the said order had been confirmed in Writ Appeal No.2185 of 2022 dated 23.09.2022.

12. The learned Special Government Pleader in her arguments pointed out that the petitioner had given a relinquishment letter on 17.06.2018 and that



W.P.No.30518 of 2024

said letter would be in effect for a period of three years and that would be in

effect till 17.06.2022. It had been pointed out that the panel was drawn on

01.01.2021 when the effect of letter was still in force and therefore, the

petitioner could not have any legitimate expectation to be included to the panel

which was prepared on 01.01.2021. It had been stated that the petitioner could

be included in the panel which would be drawn on first of January 2022 for

promotion to the post of Primary School Head Master, if she is otherwise

eligible. In this connection, it is also necessary to extract Section 57 of the

Tamil Nadu Government Servants (Conditions of Service) Act, 2016, which is

as follows:

“57. (1) Any person may, in writing, relinquish any right or privilege to which he may be entitled under this Act or the special rules if, in the opinion of the appointing authority, such relinquishment is not opposed to public interest; and nothing contained in this Act or the special rules shall be deemed to require the recognition of any right or privilege to the extent to which it has been so relinquished.

(2) Relinquishment of a right or privilege for a temporary period shall be accepted if it is made for a period of not less than three years, subject to the condition that after the expiry of the said period, the claim of the



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W.P.No.30518 of 2024

right or privilege relinquished will be with reference to the state of affairs that exist on the date of expiry of the period of relinquishment and without restoration of original seniority. If relinquishment of right or privilege is made permanently and is accepted, subsequent claim of the relinquished rights or privileges shall not be entertained.”

13. The learned Single Judge in the judgement referred by the learned Senior Counsel had placed reliance on sub-clause 2 of the aforementioned provision and stated that the relinquishment of a right or privilege for a temporary period shall be accepted if it is made for a period of not less than three years and the relinquishment will be with reference to the state of affairs that exists on the date of expiry of period of relinquishment. This has been interpreted by the learned Single Judge of Madurai Bench of Madras High Court as the date when the panel is prepared and if the three year period has expired on the date of preparation of the panel, then the petitioner should have a reasonable expectation to be included in the panel. It is contended that in this case, the petitioner had given a letter of relinquishment on 17.06.2018 and it would date back to the panel which was prepared on 01.01.2018 and three years would expire for the three panel years, 01.01.2018, 01.01.2019 and 01.01.2020 and therefore, the petitioner should be included in the panel

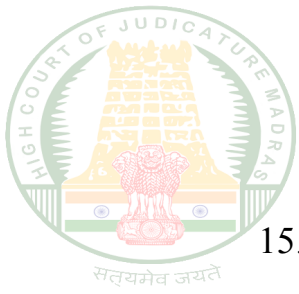


W.P.No.30518 of 2024

prepared on 01.01.2021 for the post of Primary School Head Master.

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14. But however, the circumstances and the state of affairs which prevailed on the date when the relinquishment letter was given by the petitioner herein should also be considered. On the date when the petitioner had given the relinquishment letter i.e., on 17.06.2018, the panel for the year 2018 had already been drawn on 01.01.2018. The name of the petitioner was also included in that particular panel. When the counselling was opened up on 17.06.2018, it is only an administrative act to determine the place of posting on promotion, the petitioner had given a letter of relinquishment claiming she should not be considered for promotion in that particular year. This would effectively mean that the petitioner had given up her right to be promoted on and from 17.06.2018 onwards. She had rejected being included in the panel prepared on 01.01.2018. The relinquishment will take effect from the date of such relinquishment for the subsequent years. The following years would be the panel which would be drawn on 01.01.2019, 01.01.2020 and 01.01.2021. When the next panel was drawn up for the year 2022 on 01.01.2022, the petitioner would stand eligible to be considered for promotion.

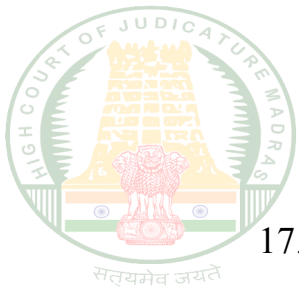


W.P.No.30518 of 2024

15. The order of the learned Single Judge of Madurai Bench of Madras

High Court is on the very same terms as the order passed in W.P.No.2649 of 2011. Very specifically relinquishment had been sought for three separate years for promotion for the panel 2006-07, 2007-08 and 2008-09. The petitioners therein claimed that when the crucial date opened up for the year 2009 on 01.04.2009, their names should be included. That reasoning is correct. The petitioner having given up her right to be considered for the promotion for three separate panel years, they would be eligible for promotion in the immediately next panel which fell on 01.04.2009. That was the reasoning of the learned Single Judge who had considered W.P.(MD).No.2649 of 2011.

16. In the other judgment relied on by the learned Senior Counsel for the petitioner, the reasoning of the learned Single Judge was that on 01.04.2022 which was the crucial date, the panel year 2022-2023 which is for the next year had not expired and therefore, the petitioner should be included in the panel year 2023-2024, but the learned Single Judge had stated that the crucial date is 01.04.2022 and the panel year 2022-2023 had not prepared and therefore, the petitioner should be included for promotion in the panel year 2022-2023.



W.P.No.30518 of 2024

17. Both the aforementioned judgments are specific with respect to the year of the panel when the promotion is opened. Here the panel for the year 2018 had already opened and ended. The petitioner had given up her right and claimed that she should not be considered for promotion for a period of three years on and from 17.06.2018. That particular period would expire on 16.06.2021. This would hold good for a period of three years. When the next panel opened up on 01.01.2022, the petitioner would be eligible for promotion. The petitioner had not given up her right specifically mentioning the panel years when she did not want to be considered for promotion. It is for that reason that the entire letter had been extracted in entirety.

18. She had stated that she is giving up her right to be considered for promotion to the post of Primary School Head Mistress for a period of three years on a temporary basis. That three years would commence on and from the date when she had issued the letter. She had not stated that she should not be considered for three separate panel years but three years in entirety.

19. Every letter has to be examined on the basis of the wording in that particular letter and every case has to be examined on a case to case basis.



W.P.No.30518 of 2024

Every relinquishment letter will stand on its own fact. Here, on 17.06.2018,

the petitioner had given up her right for promotion for the next three years.

This would effectively mean that when the panel was drawn up on 01.01.2019, 01.01.2020 and 01.01.2021, the petitioner had informed the respondents that they need not consider her for being promoted her to the post of Primary School Head Master. The respondents also did not consider her. But there is no reason why they should not consider her for the panel prepared on 01.01.2022 i.e., the year when she should be considered and no records placed that she had not been considered. The petitioner seeks to be included her in the previous panel year 01.01.2021, which unfortunately the Court cannot accept.

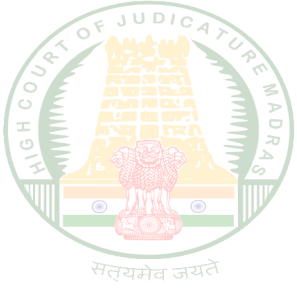
20. In view of the aforesaid reasons, I am afraid that the writ petition must suffer an order of dismissal. The Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

25.03.2025

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Index : Yes

Neutral Citation : Yes



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W.P.No.30518 of 2024

To

- 1.The Director of Elementary Education,
Perasiriyar Anbazhagan Kalvi Valagam,
College Road, Chennai – 600 006.
- 2.The District Educational Officer (Elementary),
Hosur Educational District,
Krishnagiri District.
- 3.The Block Educational Officer-I,
Thally Union,
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W.P.No.30518 of 2024

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W.P.No.30518 of 2024



WEB COPY



W.P.No.30518 of 2024

25.03.2025