



W.P. No. 31896 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2025

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

W.P. No. 31896 of 2019

and

W.M.P. Nos. 32151 and 32152 of 2019

T.Jagadeeshbabu

... Petitioner

-VS-

1. The Director of School Education
College Road, Chennai-6.
2. The Chief Educational Officer
Presidency Girls Higher Secondary School Campus
Egmore, Chennai-8.
3. The District Educational Officer
North Chennai
Government Girls Higher Secondary School Campus
Sidco Nagar, Villivakkam
Chennai-49.
4. The Secretary and Correspondent
The M.P.U.Higher Secondary School
No.103, Audiappa Naickan Street
Sowcarpet, Chennai-79.
5. P.Sekar

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned order passed by the fourth respondent vide Ref.No.MPU/TJB pg(His) De promotion 1365/11/2019 dated 09.11.2019 and quash the same and directing the respondents to approve the appointment



W.P. No. 31896 of 2019

of the petitioner as P.G. Assistant (History) in the fourth respondent school, w.e.f.24.06.2019, with all consequential monetary benefits.

WEB COPY

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mrs.P.Rajarajeswari, GA (RR1 to 3)
Mr.S.Neduchezhiyan (R4)
Mr.P.Godson Swaminathan
for M/s.Isaac Chambers (R5)

ORDER

Heard Mr.S.N.Ravichandran, learned counsel for the petitioner, Mrs.P.Rajarajeswari, learned Government Advocate for the first to third respondents, Mr.S.Neduchezhiyan, learned counsel for the fourth respondent and Mr.P.Godson Swaminathan, learned counsel for the fifth respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. This writ petition has been filed to call for the records pertaining to the impugned order passed by the fourth respondent dated 09.11.2019 in Ref.No.MPU/TJB pg(His) De promotion 1365/11/2019 and quash the same and to direct the respondents to approve the appointment of the petitioner who has been working as P.G. Assistant (History) in the fourth respondent school, w.e.f. 24.06.2019, with all consequential monetary benefits.



W.P. No. 31896 of 2019

3. The petitioner, who has been working as B.T. Assistant (History) in the fourth respondent school from 10.06.1996, has been promoted to the post of P.T. Assistant (History) on 24.06.2019 in the fourth respondent school.

4. The fourth respondent has sent a proposal to the third respondent for approval. The third respondent has returned the approval stating that in the interest of the students, preference can be given to persons, who have studied History in all the stages of their graduations and the persons, who are well versed in Tamil. It appears from the proceedings of the third respondent dated 17.07.2019 that the fifth respondent, who is junior to the petitioner, has sent a representation to the third respondent stating that he has studied both the undergraduate degree and post undergraduate degree courses in Tamil medium by having History as Major. Despite the third respondent has returned the proposal, the second respondent has recommended the third respondent to grant approval to the appointment of the petitioner by stating that the appointment was proper and the petitioner has got all the required qualification to hold the post of P.G. Assistant (History). Unmindful of the letter of the second respondent, on 24.10.2019 the fourth respondent has called the petitioner to appear for writing competitive examination with the fifth respondent in order to



W.P. No. 31896 of 2019

select who is a better person for P.G. Assistant (History). But the petitioner

ignored the same and did not participate in the above process. Hence, the proceedings has been issued by the fourth respondent on 09.11.2019 stating that the fifth respondent has been selected to the post of P.G. Assistant (History) and the promotion given to the petitioner on 24.06.2019 is cancelled.

5. The learned counsel for the petitioner submitted that despite the petitioner has studied his school education in Telugu medium, graduation and post graduation have been studied by him only in English medium. He further submitted that the petitioner has qualified in Tamil language by passing the Tamil language tests in SSLC, HSC and degree level examination conducted by the TNPSC

6. It is further submitted that because of his knowledge in Tamil, he was one of the Committee Members of the Translators, who have translated Tamil Text Books of Tamil Nadu Text Books Corporation into Telugu for the benefit of the Telugu medium students. So that would only show his Tamil proficiency and that he is able to instruct classes in Tamil, Telugu and English languages. The third respondent without seeking any necessary clarification from the

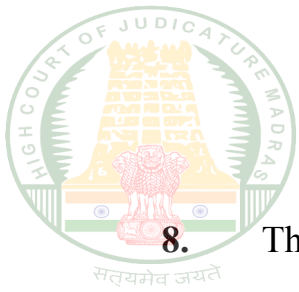


W.P. No. 31896 of 2019

fourth respondent regarding the petitioner's proficiency in Tamil language and

his other qualification, had chosen to return the paper stating that the fifth respondent had claimed that he is more suitable person to be posted as P.G. Assistant (History). In fact, on the date when the call letter was given to the petitioner to attend the competitive test for the post of the P.G. Assistant was very much occupied by the petitioner, it was not vacant. The second respondent appears to have appraised the merits better and had given an advise to the third respondent to accord approval to the appointment of the petitioner. But these facts were not considered by the fourth respondent before proceeding to issue the impugned order to the fifth respondent.

7. The learned counsel for the fifth respondent submitted that as per Rule 15(4) of the Tamil Nadu Recognized Private Schools 1978, the promotions to the post of P.G. Assistant shall be done only on the grounds of merit and ability and the seniority can be considered only when the merits and ability are equal. So according to the fifth respondent, the above Rule has been violated and the promotion to the petitioner has been given without considering his merit and ability in comparison with the fifth respondent.



W.P. No. 31896 of 2019

8. The fifth respondent has not challenged the promotion of the petitioner by way of filing a writ petition. Even though he has written objections to the third respondent, no action has been taken to cancel the promotion given to the petitioner. As on today, the petitioner holds the post of P.G. Assistant (History). It is for the second respondent to grant approval in accordance with the recommendation given by the third respondent.

9. The learned counsel for the fifth respondent further submitted that there is a violation of Rules in the selection process and hence, the promotion given to the petitioner is *non est* in law and the Statute also provides the remedy to the fifth respondent, who is aggrieved due to the promotion given to the petitioner and the fifth respondent has rightly exercised the same.

10. It is the School Committee which has to decide about the merit and ability of the candidate before choosing him for any promotion including the promotion of the petitioner to the post of P.G. Assistant (History). The Committee has not passed any order stating that the fifth respondent objection is right and that the petitioner's promotion is liable to be cancelled. Even though the third respondent has given advice to the third respondent school, the

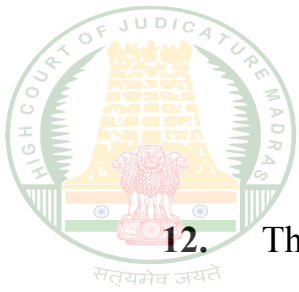


W.P. No. 31896 of 2019

WEB

fourth respondent ought to have placed it before the School Committee to take a decision. So long as the decision already taken by the School Committee is in subsisting, there cannot be any overlapping made by the fourth respondent on his own by issuing any further order.

11. The merit and the ability of a candidate to be promoted to a post need not always be by conducting written or oral test. Since the fourth respondent School Committee is competent to appraise the qualification, experience and performance of the Teachers, who are qualified to be promoted, the promotion can be given to the candidates based upon their merits. In the instant case, the petitioner himself seen to be a person, who has more skill in the language than the fifth respondent. He is conversant in Tamil, English and Telugu languages. Even though the petitioner did not study his school education in Tamil medium, he has qualified in the Tamil language tests at SSLC, HSC and degree level examination conducted by the TNPSC. More than that, he has also found to be a fit person, who can translate Tamil Text Books into Telugu. Unless the person having competency in both Tamil and Telugu languages, it cannot be possible for him to translate the Tamil Text Book into Telugu.



W.P. No. 31896 of 2019

12. The whole basics in which the fifth respondent objected the promotion of

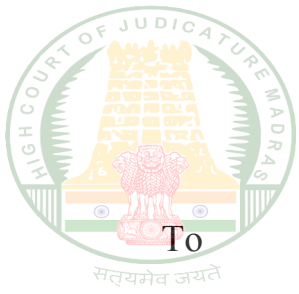
the petitioner is that he has better language efficiency in Tamil than the Petitioner. In fact, the petitioner is also having equal competency in Tamil. Hence, the promotion of the petitioner to the P.G. Assistant (History) will not in any way affect the interest of the students who are studying in the Tamil medium. As the third respondent has advised the fourth respondent School without properly appreciating the ground realities, the fourth respondent has also sent a call letter to the fifth respondent without understanding the technical difficulties in conducting the test for the post, which is already occupied by the petitioner and issued the impugned proceedings, the same is illegal and arbitrary and hence, it is liable to be set aside.

13. In view of the above stated reasons, this writ petition is allowed and the impugned order is set aside. Consequently, the connected miscellaneous petitions are closed. No costs.

27.02.2025

Internet: Yes/No
Speaking /Non-speaking order

Maya



W.P. No. 31896 of 2019

To

WEB COPY

1. The Director of School Education
College Road, Chennai-6.
2. The Chief Educational Officer
Presidency Girls Higher Secondary School Campus
Egmore, Chennai-8.
3. The District Educational Officer
North Chennai
Government Girls Higher Secondary School Campus
Sidco Nagar, Villivakkam
Chennai-49.
4. The Secretary and Correspondent
The M.P.U.Higher Secondary School
No.103, Audiappa Naickan Street
Sowcarpet, Chennai-79.



WEB COPY



W.P. No. 31896 of 2019

R.N.MANJULA, J.

Maya

W.P. No. 31896 of 2019

Dated : 27.02.2025