



WP No. 53 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 24-07-2025

PRONOUNCED ON : 07-08-2025

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

WP No. 53 of 2024

AND

WMP NO. 40 OF 2024

1. Dr. P.Kumar,
S/o. Ponnusamy,
A-12 TNGRHS 3rd Floor,
Tower Block, Taylors Road,
Kilpauk, Chennai -600 010.

Petitioner(s)

Vs

1. The Secretary To Government,
School Education Department,
Fort St.George, Chennai.

2.The Secretary,
The Tamilnadu Public Service
Commission, Chennai.

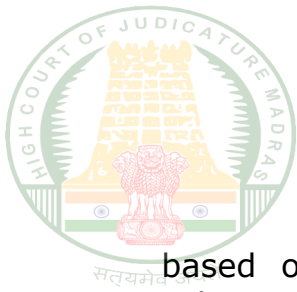
3.The Secretary,
Human Resource Management
Department, Secretariat, Chennai.

4.The Director Of School Education,
College Road,
Chennai.

Respondent(s)

PRAYER

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to Call for records relating with the impugned orders dated 22.11.2023 in Letter 13433/Pa.ka.11/2022-1 and dated 22.11.2023 in Letter 13433/Pa.Ka.11/2022-2 on the file of the 1st respondent and quash the same as illegal and consequently directing the 1st respondent to promote the petitioner for the post of Director in the School Education Department



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based on the seniority list published in the year 1996-1998 in the selection process dated 03.10.2000 of the 2nd respondent within time limit as prescribed by this Hon'ble Court and pass such further or other orders as this Hon'ble Court may deem fit and proper in the fact and circumstances of the case.

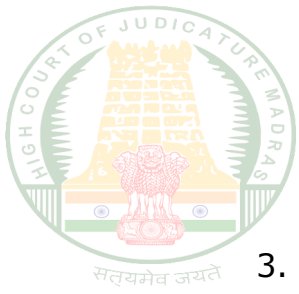
For Petitioner(s): Mr.T.Ramesh

For Respondent(s): Mr.R.Neelakandan
Additional Advocate General
assisted by
Mrs.S.Mythreye Chandru
Special Government Pleader
for R1, R3 & R4
M/s.K.Bharanidharan
Standing Counsel For R2.

ORDER

This writ petition has been filed to call for records relating with the impugned orders dated 22.11.2023 in Letter 13433/Pa.ka.11/2022-1 and dated 22.11.2023 in Letter 13433/Pa.Ka.11/2022-2 on the file of the 1st respondent and quash the same as illegal and consequently directing the 1st respondent to promote the petitioner for the post of Director in the School Education Department based on the seniority list published in the year 1996-1998 in the selection process dated 03.10.2000 of the 2nd respondent within time limit as prescribed by this Hon'ble Court.

2. Heard Mr.T.Ramesh, learned counsel for the petitioner, Mr.R.Neelakandan, learned Additional Advocate General assisted by Mrs.S.Mythreye Chandru, learned Special Government Pleader for R1, R3 & R4 and Mr.K.Bharanidharan, learned Standing Counsel appearing for the 2nd respondent.



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3. The learned counsel for the petitioner would submit that the petitioner secured 682.94 marks in the Group- I examination, and stood 3rd rank in the merit list and 10th rank in the communal roster point. It is the further submission of the petitioner that he has been promoted as Chief Educational Officer on 08.09.2006 and thereafter, promoted in the post of Joint Director in the year 2016. It is the specific contention of the petitioner that he is the senior most in the cadre of Joint Director and is entitled to be promoted to the post of Director of School Education. The learned counsel would further submit that in spite of the direction of the Hon'ble Supreme Court, the respondents did not revise the seniority based upon the judgement in Contempt Petition (Civil) Diary No.6415 of 2021 in SLP (C) No.2886 of 2016. He would further submit that the petitioner filed a writ petition in WP.(MD) No.13417/2023 and has also sent a representation dated 25.05.2023 to the first respondent to promote him to the next level post of Director of School Education. However, the respondent had illegally denied his legitimate right and issued the impugned orders dated 22.11.2023. Hence, prayed to interfere with the impugned orders.

4. Per contra, Mr.R.Neelakandan, learned Additional Advocate General would submit that the petitioner was appointed to the post of District Educational Officer in the year 2001 based upon the selections made by the Tamil Nadu Public Service Commission [TNPSC]. He was



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appointed vide G.O.Ms.No.148 dated 13.09.2001 even on the date of the appointment, the petitioner was informed that he should complete BT or B.Ed degree within a period of two years, but the petitioner has completed B.Ed., degree only during 2003. On completion of B.Ed., as well as the Administrative Training, he was officiated as a District Educational Officer on 31.10.2003. It is the further contention of the respondents that the petitioner's claim for parity with certain other persons is in contravention to the Rules. It is the further contention that the petitioner was served with a charge memorandum on 27.09.2023. Therefore, he is otherwise not eligible to be considered for promotion. Hence, prayed to dismiss the writ petition.

5. I have given my anxious consideration to either side submissions.

6. In the present writ petition, the petitioner's only grievance is that he is a senior most person, therefore, he must be considered for the post of Director of School Education. It is well settled principle of law that the promotion is not a fundamental right, however, to be considered for promotion is a fundamental right. In the case in hand, the impugned letters dated 22.11.2023, the petitioner's consideration was rejected on the ground that he was facing charge under Section 17(a) during 2014-2015, on the above score his promotion to the post of Joint Director was delayed and he was given promotion only on 20.09.2016. Though the

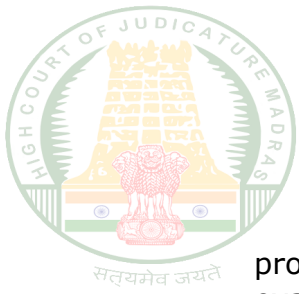


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learned counsel for the petitioner submitted that the respondent has to revise the seniority as per the order of the Hon'ble Supreme Court, as rightly contended by the learned Additional Advocate General, the petitioner's appointment took place in the year 2001, whereas, the Hon'ble Supreme Court has directed in the Contempt Petition (Civil) Diary No.6415 of 2021 in SLP (C) No.2886 of 2016 to revise the seniority of the persons those who were appointed on and after 10.03.2003. Therefore, such revision is not applicable to the petitioner.

7. Here, the petitioner's claim was rejected on many grounds and was stated in paragraph 8 of the counter statement. For ready reference, the same is extracted hereunder:-

"8. With reference to averments made in paras 6 & 7 of the affidavit, it is submitted that the petitioner's reference to the case of Tmt.S.Usharani is inapplicable to his case. In the said case, Tmt.S.Usharani was selected through Tamil Nadu Public Service Commission during the year 1997 and appointed in the post of District Educational Officer on 29.09.1997 whereas the petitioner was selected during the year 1998 and appointed in the post of District Educational Officer on 30.04.2003. It is also submitted that the petitioner's reference in the case of Thiru.P.Kuppusamy, is that though the petitioner and Thiru.P.Kuppusamy was selected by Tamil Nadu Public Service Commission in the same year Thiru.P.Kuppusamy has filed a W.P.No.17647 of 2004 before the Hon'ble High Court praying to revise his seniority in the recruitment to the post of District Educational Officer and based on the orders of the Hon'ble High Court, Tamil Nadu Public Service Commission has revised his seniority from seniority no.20 to 5. His seniority has been revised accordingly and he was promoted before the petitioner. It is submitted that the petitioner's reliance on the judgment of the Hon'ble High Court in W.P.No.13555 of 2012 in the case of S.Nagaraja Murugan is inapplicable to his case. In the said case, the Hon'ble High Court held that the period of B.Ed training of the petitioner therein should be counted towards his

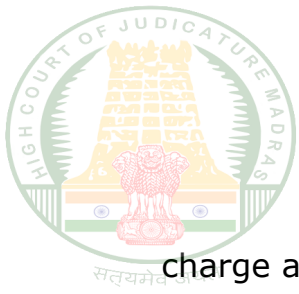


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probationary period, as he had passed the departmental examinations within the time limit. However, in the present case, the petitioner did not pass the departmental examinations within the time limit that is during his probationary period and hence, his period of B.Ed training could not be counted towards his probationary period. The petitioner's reference to the case of Thiru.S.Sethuramavarma is also irrelevant and distinguishable from his case. In the said case, the petitioner therein had completed his B.Ed qualification at the time of selection and hence, his period of training was counted towards his probationary period. However, in the present case, the petitioner did not have B.Ed qualification at the time of selection and he completed his B.Ed course only on 28.04.2003. Hence his probation period starts only from that date."

8. At present, the main ground to deny the petitioner's promotion is the charge memorandum issued on 27.09.2023 under Section 17(b) of The Tamil Nadu (Discipline and Appeal) Rules. In this connection, the learned counsel for the petitioner would rely upon the judgment of the learned Single Judge in WP.(MD) No.25102 of 2023 dated 16.10.2023 filed by the petitioner herein and in which the charge memorandum dated 27.09.2023 has been stayed. Therefore, contended that the stayed charge memorandum cannot be put against him while considering him for promotion. But, the contention of the petitioner is in contravention to the settled legal principles. The order of stay is nothing but restraining the respondent from proceeding further viz., restraining the respondent to call for explanation, appointing Enquiry Officer, proceeding with the enquiry, requiring the petitioner to give further representation and passing the final order, so as to bring the issuance of charge to its logical conclusion. Therefore, the above stay order will in no way nullify the existence of



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charge against the petitioner. As we all know, as long as the charge is not quashed or withdrawn or ultimately the delinquent has been discharged from all charges, Rule 17(b) charge on the crucial date is a bar to consider the individual for promotion.

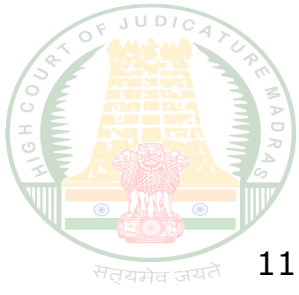
9. In this regard, it is appropriate to look at the guidelines in Schedule XI Part A. In the Schedule XI, while prescribing the procedure for inclusion of the particulars in the approved list in Clause II (2) had stated as follows:-

"II. Consideration of members for inclusion in the approved lists:-

(1)

(2) If the disciplinary proceedings under rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules pending against a member of service are **merely stayed by a Court, his case shall be deferred till the judicial proceedings are concluded**, unless a contrary order is passed by the Court and it is decided not to challenge the same. If the Court quashes the charge memo, then the name of the member of service concerned shall be considered for inclusion in the approved list for promotion or for appointment, if he is otherwise qualified."

10. According to Schedule XI, even the stay order against 17(b) charge will in no way helpful to the individual so as to include him in the panel. Therefore, as rightly contended by the learned Additional Advocate General, apart from other reasons, the charge memorandum dated 17.09.2023 is also staring against the petitioner for considering him to the next level of promotion. Hence, this Court does not find any infirmity in the impugned orders.



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11. In the result, this writ petition stands dismissed. There shall be no order as to costs. Consequently, connected WMP is also closed.

07.08.2025

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Index:Yes/No

Speaking order

Neutral Citation:Yes/No

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