



W.P.(MD).No.19635 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 22.01.2025

ORDER PRONOUNCED ON : 30.01.2025

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.19635 of 2024
and WMP(MD).Nos.16641 & 16643 of 2024**

B.Balumani

....Petitioner

Vs

1.The State of Tamil Nadu
Represented by its Secretary
School Education Department
Secretariat
St.George Fort
Chennai

2.The Director of School Education
DPI Campus
College Road
Chennai 600 006

3.The Commissioner
Madurai Corporation
Madurai

4.The Educational Officer
Education Section
Madurai Corporation
Madurai



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5.Mrs.T.Umamaheswari
P.G.Assistant (Geography)
Avvai Corporation Girls Higher Secondary School
East Avani Moola Street
Madurai 625 001

...Respondents

Prayer : This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned confirmation panel issued by the fourth respondent in his proceedings in Na.Ka.No.006995/O1/2024 dated 07.08.2024 and the consequential impugned panel published by the fourth respondent in Na.Ka.No.006995/O1/2024 dated 08.08.2024 insofar as the fifth respondent is concerned and the consequential impugned promotion order issued by the third respondent vide Na.Ka.No.006995/O1/2024 dated 08.08.2024 and quash the same as illegal insofar as it relates to the fifth respondent is concerned and consequentially to direct the respondents to promote the petitioner as Headmaster of the Higher Secondary School on the basis of his qualification and seniority within the period that may be stipulated by this Court.

For Petitioner : Mr.H.Mohammed Imran
For M/s.Ajmal Associates

For Respondents :Mr.T.Amjadkhan
Government Advocate for R1, R2 & R4

: Mr.S.Vidhya Sagar for R3

: Mr.D.Malaichamy for R5



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ORDER

The present writ petition has been filed by a P.G.Assistant Teacher working in the Corporation Girls Higher Secondary School, challenging the publication of confirmed panel for the post of Headmaster of Higher Secondary School, notification for appearing for promotional counselling and the order of promotion granted in favour of the fifth respondent.

(A)Factual Matrix:

2.According to the learned counsel for the writ petitioner, the petitioner is working as a P.G.Assistant ((Physics) in Corporation Girls Higher Secondary School, Madurai and his next avenue of promotion is that of the Headmaster of Higher Secondary School. According to the petitioner, as per Tamil Nadu Higher Secondary Educational Service Rule, passing of Tamil Nadu School Education Department Administrative Test Paper -I and Paper-2 is mandatory for being promoted as a Headmaster of Higher Secondary School. He had further contended that the crucial date for preparation of panel is the first of January every year. The petitioner is fully qualified and he is next in the order of seniority to the fifth respondent herein.

3.The learned counsel for the petitioner had further contended that the fifth respondent had appeared for Tamil Nadu School Education Department Administrative Test Paper -I and Paper-2 on 11.12.2023 and the results were



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published on 08.04.2024. The fifth respondent was included in the tentative panel dated 30.07.2024 and objections were called for. The petitioner has submitted his objections on 31.07.2024. After considering the objections, the confirmation panel was issued under the impugned order dated 07.08.2024. A circular was issued calling upon the teachers in the said panel to appear for counselling on 08.08.2024. Promotion orders were issued by the third respondent in favour of the fifth respondent and others on 08.08.2024.

(B) Contentions of the counsels appearing on either side:

4. According to the learned counsel for the petitioner, when the fifth respondent was not qualified for being promoted as Headmistress of a Higher Secondary School as on 01.01.2024, the name of the fifth respondent ought not to have been included in the panel. The respondent authorities have waited for the results to be published and thereafter, prepared the panel by including the name of the fifth respondent. This will only result in postponing the crucial date that was fixed under the statutory service rules.

5. The learned counsel had relied upon a Division Bench judgment of our High Court reported in *(2003) 2 MLJ 4 (A.Ruckmani Vs. The Correspondent, Gandhiji Aided Middle School, Keelasiviri and others)* to impress upon the Court that when a candidate is not qualified on the date when the post fell vacant, the name of the concerned candidate cannot be



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considered for promotion. Hence, he prayed for setting aside the orders impugned in the writ petition and to promote the writ petitioner as Headmaster of Higher Secondary School on the basis of his qualification and seniority.

6.Per contra, the learned counsel appearing for the third respondent herein relying upon the communication of Joint Director of School Education dated 04.08.2021 contended that in case, if any one of the teachers have cleared the Deputy Inspector Test, it is not necessary to clear the Tamil Nadu School Education Department Administrative Test Paper -I and Paper-2. He had further relied upon G.O.Ms.No.222, School Education Department dated 08.10.2024; G.O.Ms.No.220, School Education Department, dated 02.11.2006 and G.O.Ms.No.136, School Education Department, dated 14.08.2006 to impress upon the Court that once a candidate has cleared the Deputy Inspector Test which is equivalent to Administrative Test Paper-I and Paper-2, he / she need not pass the Administrative Test Paper-I and Paper-2.

7.The learned counsel appearing for the fifth respondent herein had contended that clearing of Tamil Nadu School Education Department Administrative Test Paper -I and Paper-2 is not mandatory, in view of the fact that the fifth respondent had already cleared the Deputy Inspector Test. He had further contended that the fifth respondent has appeared for the Administrative Test Paper-I and Paper-II on 11.12.2023 and had passed the



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said examination on 08.04.2024. Relying upon the Division Bench judgment of our High Court in *W.A.No.803 of 2013 (The Director of Elementary Education, Chennai and another Vs.K.Nedumaran)* dated 27.02.2015, the learned counsel had contended that once results are published, the same would relate back to the last date of examination. Therefore, the fifth respondent should be construed to have passed the Administrative Test Paper-I and Paper-II in December 2023. He had also relied upon Ruling (2) under Fundamental Rule 26(a) in order to support his case.

8.I have considered the submissions made on either side and perused the material records.

(C)Conclusion:

9.The learned counsel appearing for Madurai Corporation and the private respondents have contended that a pass in Administrative Test Paper-I and Paper-II are not mandatory, in case, if any one of the teacher had already passed the Deputy Inspector Test. They have also relied upon certain Government Orders and letter of Joint Director of School Education as referred to supra. However, a perusal of the Statutory Service Rules namely Tamil Nadu Higher Secondary Educational Service Rules published in the Government Gazette on 30.01.2020, which was issued in exercise of the power conferred by the proviso to Article 309 of Constitution of India, clearly



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reveals that a candidate has to pass Administrative Test Paper-I and Paper-2 apart from other tests. Therefore, the respondents cannot cite executive orders or circular of the authority to get over the statutory service rules.

10.It is settled position of law that the statutory service rules would prevail over the executive orders and the notification issued by the authorities concerned. Therefore, it is clear that a pass in the above two tests is mandatory for being promoted as Headmaster of a Higher Secondary School.

11.It is the contention of the writ petitioner that the fifth respondent, though had appeared for the Administrative Test Paper-I and Paper-2 in December 2023, she had passed the said examination only on 08.04.2024 which is after the crucial date namely 01.01.2024. When the fifth respondent was not qualified on the crucial date, her name ought not to have been included in the panel. However, it is the contention of the respondents that as far as the departmental tests are concerned, after the results are published, the results would date back to the last date of examination undertaken by a candidate. Therefore, the fifth respondent should be presumed to have passed the test in December 2023 itself and hence, she was fully qualified on the crucial date namely 01.01.2024.

12.The learned counsel for the petitioner has relied upon a Division Bench judgment of our High Court reported in **(2003) 2 MLJ 4 (A.Ruckmani**

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others). A perusal of the said judgment reveals that the appellant in the said case did not have necessary qualification of B.Ed. degree on the crucial date.

The said judgment does not relate to departmental test. Therefore, the said order of the Hon'ble Division Bench is not applicable to the facts of the present case.

13. Another Division Bench of our High Court in ***W.A.No.803 of 2013 (The Director of Elementary Education, Chennai and another Vs.K.Nedumaran)*** dated 27.02.2015 was pleased to dismiss the writ appeal filed by the State which arises out of departmental test. The Hon'ble Division Bench was pleased to refer to Ruling(2) under Fundamental Rule 26(a) and pointed out that passing of departmental examination would relate back to the date of examination and not the date of declaration of results. Therefore, this Court is inclined to follow the said Division Bench judgment.

14. In the present case, the fifth respondent has appeared for the departmental examination in December 2023 and the results were published on 08.04.2023. Therefore, the fifth respondent should be deemed to have passed the departmental examination in December 2023 itself. Hence, she is qualified as on 01.01.2024. In such circumstances, inclusion of the fifth respondent in the panel for promotion to the post of Headmistress or issuance of promotion order in favour of the fifth respondent cannot be said to be illegal or arbitrary in nature.



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15.In view of the above said deliberations, there are no merits in the writ petition. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

30.01.2025.

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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To

1.The Secretary
State of Tamil Nadu
School Education Department
Secretariat
St.George Fort
Chennai

2.The Director of School Education
DPI Campus
College Road
Chennai 600 006

3.The Educational Officer
Education Section
Madurai Corporation
Madurai



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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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