



W.P.(MD)No.21087 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.09.2025

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.21087 of 2021

R.Mariraj

... Petitioner

Vs.

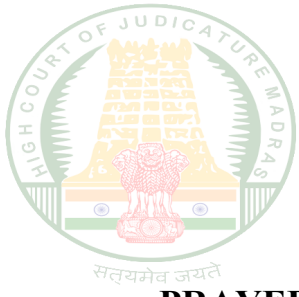
- 1.The Director of Elementary Education,
DPI Complex, College Road, Chennai 6.
- 2.The District Educational Officer,
Melur Educational District,
Melur, (Formerly District Elementary
Educational Officer, Madurai),
Madurai District.
- 3.The Block Educational Officer,
(Formerly Additional Assistant Elementary Officer),
Madurai West, Anaiyur, Madurai 625017.
- 4.The Principal Accountant General (A and E),
Office of the Principal Accountant General,
361, Anna Salai, Teynampet, Chennai 18.

5.R.Tamilarasi

6.R.Muthuselvi

7.C.Malarvizhi

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the Order Na.Ka.No.4463/A3/2018 dated 17.09.2021 passed by the second respondent and quash the same and consequently, direct the first to fourth respondents to promote the petitioner as Primary School Headmaster with effect from 05.01.2004 on par with his junior i.e. fifth respondent and to promote the petitioner as Middle School Headmaster with effect from 06.08.2016 on par with his junior i.e. sixth respondent and grant all the service, monetary benefits and pensionary benefits with arrears within a time limit to be fixed by this Court.

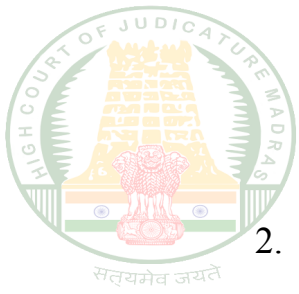
For Petitioner : Mr.A.Thirumurthy

For R-1 to R-3 : Mr.S.Shaji Bino,
Special Government Pleader

For R-4 : Mr.P.Gunasekaran

ORDER

This writ petition has been filed challenging the impugned order dated 17.09.2021 passed by the second respondent rejecting the petitioner's request to promote the petitioner as Primary School Headmaster with effect from 05.01.2004 on par with his junior, i.e., the fifth respondent, and to further promote the petitioner as Middle School Headmaster with effect from 06.08.2016 on par with his senior, i.e., the sixth respondent.



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2. Pursuant to the directions issued by this Court in the earlier writ petition filed by the petitioner in W.P.(MD).No.16848 of 2016, the second respondent had reconsidered the petitioner's representation seeking for the aforementioned relief and had rejected the same under the impugned order dated 17.09.2021. The second respondent has rejected the petitioner's request by giving various reasons as disclosed in the impugned order. On the last hearing date, i.e., on 03.09.2025, the learned Special Government Pleader appearing for respondent Nos.1 to 3 had submitted that this Writ Petition is not maintainable, since the petitioner is seeking promotion after his retirement from service, which is not legally permissible as per the decision rendered by the ***Hon'ble Supreme Court in the case of Government of West Bengal Vs. Dr.Amal Satpathi and Others*** reported in ***2024 Supreme (SC) 1093***. He would also submit that the petitioner cannot claim seniority after his retirement in view of the law laid down by the Hon'ble Supreme Court in the case of ***Bihar State Electricity Board and Others Vs. Dharamdeo Das*** in ***Civil Appeal No.6977 of 2015*** dated ***23.07.2024***.

3. On the last hearing date, i.e., on 03.09.2025, the learned counsel appearing for the petitioner sought adjournment to argue the matter and only on his request, the matter has been adjourned for today. Today, the learned counsel



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made his submissions. He would submit that even prior to the petitioner's

retirement from service, the petitioner had made several representations to the respondents seeking for promotion as prayed for in this writ petition. He would further submit that earlier the petitioner was promoted, but, thereafter, reverted erroneously by the respondents and therefore, he would submit that his juniors are now placed higher in rank on seniority to that of the petitioner, which is improper and illegal. He would further submit that only pursuant to the directions issued by this Court in the earlier writ petition filed by the petitioner in W.P.(MD).No.16848 of 2016, issued on 17.03.2021 by this Court, the impugned order came to be passed, which according to the learned counsel for the petitioner is erroneous and not in accordance with law. He would also submit that when the earlier writ petition was filed in the year 2016, the petitioner was still in service and had retired only on 30.04.2020. Therefore, he would submit that the decision relied upon by the learned Special Government Pleader appearing for respondent Nos.1 to 3 as referred to supra has no applicability to the facts of the instant case.

4. In the case of ***Government of West Bengal Vs. Dr.Amal Satpathi and Others*** reported in ***2024 Supreme (SC) 1093***, the Hon'ble Supreme Court has categorically held that promotion cannot be retrospectively granted after



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retirement, as it requires actual assumption of duties and responsibilities of the

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promotional post. It is also made clear in the said judgment that the promotion only becomes effective upon assumption of duties in the promotional post and not on the date of occurrence of vacancy or the date of recommendation. It has also been held in the same decision that right to be considered for promotion is not only a statutory right but also a fundamental right, but there is no fundamental right to promotion itself. The contention of the petitioner before this Court is that he has been making every effort to obtain promotion, even during the time when he was in service. However, in the aforesaid Hon'ble Supreme Court decision, it has been held that though the right to be considered for promotion is not only a statutory right, but also a fundamental right, but there is no fundamental right to promotion itself and it has also been made clear that the promotion only becomes effective upon assumption of duties on promotional post and not on the date of occurrence of vacancy or the date of recommendation. Even in cases where recommendation of promotion that has been made by the respondents, any aggrieved employee cannot claim as a matter of right after retirement that he ought to have been granted promotion since after retirement it is impossible for him to actually assume duties and responsibilities of the promotional post. In the case on hand, it is to be noted that, even when a direction was issued by this Court when the matter was



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remanded back to the respondents for fresh consideration i.e., 17.03.2021, the

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petitioner had retired from service on 30.04.2020 itself. Therefore, there is no question of showing indulgence by this Court in favour of the petitioner in view of the law laid down by the Hon'ble Supreme Court in the aforesaid decision, wherein, it has been made clear that the promotion only becomes effective only upon assumption of duties on promotional post and not on the date of occurrence of vacancy or on the date of recommendation. It is to be further noted that promotion cannot be retrospectively granted after retirement, as it requires actual assumption of duties and responsibilities of promotional post.

5. In the other decision relied upon by the learned Special Government Pleader appearing for respondent Nos.1 to 3 in the case of ***Bihar State Electricity Board and Others Vs. Dharamdeo Das in Civil Appeal No.6977 of 2015 dated 23.07.2024***, it has also been made clear that an employee cannot claim seniority after his retirement. The following reasons have been given by the Hon'ble Supreme Court for the said proposition:

“The seniority cannot be reckoned from the date of occurrence of the vacancy and cannot be given retrospectively unless it is so expressly provided by the relevant service rules. It is so because seniority cannot be given on retrospective basis when an employee has not been borne in the cadre and by doing so it



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may adversely affect the employees who have been appointed validly in the meantime.”

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6. In the case on hand as well, the petitioner was promoted while he was in service and his request for promotion has already been rejected under the impugned order and therefore, the question of seniority to the petitioner on retrospective basis does not arise and if it is granted, it will adversely affect the employee, who have been appointed validly in the meantime.

7. For the foregoing reasons, this Court is of the view that this Writ petition is not maintainable in view of the decisions rendered by the Hon'ble Supreme Court in the case of (a) ***Government of West Bengal Vs. Dr.Amal Satpathi and Others reported in 2024 Supreme (SC) 1093*** and (b) ***Bihar State Electricity Board and Others Vs. Dharamdeo Das in Civil Appeal No.6977 of 2015 dated 23.07.2024.***

8. In the result, there is no merit in this writ petition and the same stands dismissed. No costs.

09.09.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
TSG



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To

1.The Director of Elementary Education,
DPI Complex, College Road, Chennai 6.

2.The District Educational Officer,
Melur Educational District,
Melur, (Formerly District Elementary
Educational Officer, Madurai),
Madurai District.

3.The Block Educational Officer,
(Formerly Additional Assistant Elementary Officer),
Madurai West, Anaiyur, Madurai 625017.



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ABDUL QUDDHOSE, J.

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