



WEB COPY

WP No. 24034 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-02-2026

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THE HON'BLE MR.JUSTICE HEMANT CHANDANGOUDAR

WP No. 24034 of 2017

K.Kunhali

..Petitioner(s)

Vs

1. The Secretary to Government
Education Department, Fort St. George,
Secretariat, Chennai 600 009.
2. The Director of School
Education, DPI Campus, College Road,
Chennai 600 006.
3. The District Education Officer
Gudalore, Nilgiri District.

..Respondent(s)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 3rd respondent in his proceedings Na.Ka.No. 498/A1/ 2016 dated 02.2017 (Signed on 14.02.2017) and quash the same and consequently directing the respondents to promote the Petitioner as Junior Assistant notionally on par with his Juniors (i.e.with effect from 1989 the date on which his juniors were promoted with all other service and monetary benefits in the light of the order passed in W.P.No. 13559/ 06 dated 09.04.2012and pass such suitable orders or other orders as this Honourable court.



For Petitioner(s):

M/s. R.S.Anandan

For Respondent(s):

Mrs.P.Rajarajeswari, G.A.

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ORDER

The petitioner challenges the order passed by the 3rd respondent in proceedings Na.Ka.No. 498/A1/2016 dated 02.2017 (signed on 14.02.2017).

2. By the said order, the petitioner's request for grant of retrospective promotion to the post of Junior Assistant with effect from 15.03.1989 was rejected.

3. The petitioner was initially appointed as an Office Assistant in the Panchayat Union on 30.07.1974. Pursuant to the Government's policy decision to provincialise local body staff, as per G.O. Ms. No. 857, Education Department, dated 23.05.1981, the petitioner was absorbed into the Education Department as a Government servant with effect from 01.06.1981. Thereafter, he was promoted as Record Clerk on 01.07.2005 and as Lab Assistant on 03.01.2008. In accordance with the Tamil Nadu Ministerial Service Rules, he was further promoted as Junior Assistant on 24.08.2011. Subsequently, he attained the age of superannuation and retired from service on 30.06.2012.



4. After retirement, the petitioner came to know that several of his juniors in the feeder category had been promoted to the post of Junior Assistant prior to his retirement. Noticing this anomaly in seniority and promotion, the petitioner submitted a representation seeking notional promotion to the post of Junior Assistant on par with his juniors, along with consequential revision of pensionary benefits.

5. However, by the impugned order dated 14.02.2017, the respondents rejected the petitioner's request. The said rejection is arbitrary and contrary to the settled principle that a senior is entitled to promotion on par with his juniors, if vacancies existed and juniors were promoted during the senior's service tenure.

6. Heard the learned counsel for the petitioner and the learned counsel appearing for the State. The materials placed on record were also perused.

7. In the counter affidavit, the learned counsel for the State contended that though the petitioner was absorbed into Government service in 1981 pursuant to G.O. Ms. No. 857, he was allotted to a school under the Education Department only in 1987. Hence, according to the State, his eligibility for promotion to the post of Junior Assistant has to be reckoned only from the date of such allotment, i.e., from 1987, and not from the date of initial absorption. It was further contended that the petitioner, having accepted subsequent promotions without



protest and having submitted his representation only after retirement, is guilty of delay and laches.

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8. However, the materials placed in the Typed Set of Papers reveal that the petitioner had been submitting representations from 1981 onwards seeking rectification of seniority and promotion on par with his juniors. It is further submitted that similarly placed employees had approached this Court in W.P. No. 13559 of 2006, wherein this Court, by order dated 09.04.2012, considered the rights of absorbed employees. In paragraphs 11, 12 and 13 of the said judgment, this Court observed as follows:

“11.No doubt, the petitioner has not challenged promotion granted to his juniors, whose particulars have been furnished in the supporting affidavit of this writ petition. At the same time, the services rendered by him, both in Panchayat Union ought not to have been ignored, by citing G.O.Ms.No.1924, Education, dated 04.12.1987. The contention of the respondents that the services rendered in Panchayat Union cannot be reckoned for seniority, is not tenable, in view of the fact that the petitioner continued in the Education Department. He cannot be treated as a deputationist, after induction. Termination of lien is a tripartite arrangement and without the consent of the Government Servant, it cannot be said that the petitioner and others who were inducted in Education Department, would lose all their rights accrued in the latter department. At this juncture, it is also to be noted that the petitioner



had not sent to the parent department, and he has also withdrawn his option to revert. In such circumstances, without there being any order of being passed, the services rendered in the first department cannot be ignored.

12.The contention that the petitioner has completed SSLC and passed the required education qualifications for promotion to the post of Junior Assistant, has not been refuted. As rightly contended that when promotions have been granted to his juniors, viz., Thiru.C.Rajendran, Thiru.Rooliraj, Thiru.Rangaraj, as Junior Assistants in the years 1992 and 1982 respectively, who have joined the Education Department only in the year 1985 and 1982 respectively, the case of the petitioner ought to have been considered, as he is admittedly senior to them in the feeder category post. The contention that the petitioner has been promoted only as Record Clerk in the year 2002, and therefore not entitled to be promoted as Junior Assistant is not tenable. When the promotion has been granted to his juniors, before bifurcation, the same ought to have been applied, without ignoring the services rendered in panchayat services. If the same had been taken into consideration, the petitioner is fully eligible.

13.Once the Government have passed orders, inducting him in Education Department, the services rendered in Panchayat Union Schools, as Office Assistant, also ought to have been taken into consideration for the purpose of reckoning the seniority. In such a view of the matter, there shall be a direction to the respondents to consider the case of the petitioner for promotion to the Junior Assistant, from the date on which, his juniors were



promoted, with all service and monetary benefits, within a period of three months from the date of receipt of a copy of this order. The petitioner has retired from service and therefore, the retiral benefits also have to be revised subsequently.”

9. The Coordinate Bench of this Court has categorically held that, for the purpose of promotion, the service rendered in the Panchayat Union must be reckoned along with the service rendered in the Education Department for determining seniority. The Bench further clarified that once the Government issued orders inducting the staff into the Education Department as absorbed employees, the substantial and continuous service rendered in the Panchayat Union ought to be taken into account for seniority. Consequently, a direction was issued to consider the cases of the petitioners therein for promotion to the post of Junior Assistant from the date on which their juniors were promoted. As the said order has attained finality and has also been implemented by the respondents, the present petitioner, being similarly situated, is entitled to the same benefit on the ground of parity.

10. In view of the above, the Writ Petition stands allowed and the impugned order passed by the respondents is hereby quashed, with the following directions:



11. The respondents are directed to consider the case of the petitioner for grant of notional promotion to the post of Junior Assistant with effect from the date on which his juniors were promoted, together with all consequential monetary benefits. The respondents shall also revise the petitioner's pensionary benefits arising out of such notional promotion. The above exercise shall be completed within a period of three (3) months from the date of receipt of a copy of this order.

12. There shall be no order as to costs.

02-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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HEMANT CHANDANGOUDAR, J.

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To

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Education Department, Fort St. George,
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