

P.Petchi. Vs. the Director of Elementary Education and ors.

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Court : Chennai

Decided On : Jul-06-2012

Judge : Vinod K.Sharma, J.

Acts : Tamil Nadu Elemetary Educational Subordinate Service Rules ;
[Constitution of India](#) - Articles 226

Appeal No. : W.P.No.8316 of 2007 (O.A.1817 of 2002)

Appellant : P.Petchi

Respondent : The Director of Elementary Education and ors.

Advocate for Def. : Mr.R.Vijayakhumar, Adv.

Advocate for Pet/Ap. : Mr.R.Rengaramanujam, Adv.

Judgement :

Prayer: Writ petition is filed under Article 226 of [Constitution of India](#) for the issuance of a writ of Certiorari, to call for the records connected with the impugned order passed by the 1st respondent in Proceedings No.39493/ED.1/2001 dated 20.11.2001 and quash the same and consequently promote the petitioner as Primary School Headmaster from the date on which her next junior the 4th respondent herein was promoted as Headmaster with all monetary and other service benefits.

ORDER

1. The petitioner has invoked the extraordinary equitable jurisdiction of this Court under Article 226 of the [Constitution of India](#) with a prayer for issuance of a writ in the nature of Certiorari, to quash the order No.39493/ED.1/2001 dated 20.11.2001 in denying promotion to the post of Primary School Headmistress, with consequential prayer to consider her for promotion from the date of her junior /4th respondent, was so promoted.

2. The petitioner was appointed as Secondary Grade Teacher on 01.06.1970, and her services were regularized with effect from 01.06.1972. The petitioner is the senior most teacher in the Periakulam Panchayat Union. The panel for promotion to the post of Primary School Headmaster / Headmistress was prepared on 01.01.2000, in which her name was shown at Sl.No.1. But instead of promoting the petitioner, her junior K.Perumal, whose name appeared at Sl.No.2 and her other juniors, who were in the panel at Sl.Nos.2 to 5, were promoted as Elementary School Headmaster.

3. The petitioner immediately submitted a representation and in response to the said representation, the petitioner was informed that she was not eligible for promotion as Elementary School Headmistress, since she has got less than 35% minimum marks in SSLC. The petitioner preferred an appeal against rejection of her claim of promotion, which was also dismissed.

4. It is submission of petitioner, that she belongs to Scheduled Caste category and had passed SSLC in the year 1965. It was on the basis of the marks obtained in SSLC, she got admission in the Teacher Training School and she passed T.S.L.C. course.

5. According to the rules, the qualification prescribed for appointment as Secondary Grade Teacher is a trained Teacher's Certificate of the Secondary Grade Basic Trained Teachers' Certificate awarded by the Government of Tamil Nadu or its equivalent.

6. The petitioner has also passed M.A.Degree examination, through the Open University of Annamalai University in May 1994 and also has a degree of B.Ed., which was granted to her in May 1996. She has been granted advance increment for acquiring the higher qualification.

7. The post of Headmaster / Headmistress in Primary School is filled up by transfer of senior most Secondary Grade Teachers. The petitioner was earlier offered promotion as Headmistress in the year 1997, but due to her health condition, she could not join, and opted to forego her promotion for three years as per the rules. The petitioner, therefore, was entitled to be considered for promotion in the year 2000.

8. The impugned order, rejecting her claim for promotion, has been challenged on the ground that the order is totally arbitrary and outcome of misreading of rules. It is the contention of learned counsel for the petitioner, that the post of Primary School Headmaster / Headmistress is filled up by transfer on the basis of seniority and passing of SSLC is not the requisite qualification.

9. It is also the contention of learned counsel for the petitioner, that the ground for rejection, that the petitioner was not having 35% marks in SSLC, therefore, cannot be sustained, as it is not the eligibility condition. This finds support from the fact, that the petitioner was earlier offered promotion in the year 1997, therefore, there is no basis now to deny her the promotion.

10. On consideration, I find force in the contention raised by the learned counsel for the petitioner. The reading of the Special Rules of the Tamil Nadu Elementary Educational Subordinate Service Rules, clearly show, that the qualification for appointment by transfer to the Primary School Headmaster / Headmistress, is a trained Teacher's Certificate of the Secondary Grade Basic Trained Teachers' Certificate awarded by the Government of Tamil Nadu or its equivalent.

11. It is not disputed, that the petitioner possesses this qualification. The reading of the rules, therefore, shows that there is force in the contention raised by the learned counsel for the petitioner, which deserves to be accepted.

12. Consequently, this writ petition is allowed. A writ in the nature of Certiorari is issued, quashing the impugned order, with direction to the respondents to promote the petitioner as Primary School Headmistress from the date of her immediate junior was promoted, i.e.17.06.2001, with all consequential benefits.

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