

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-08-2015

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.5766 of 2007 (T)
(O.A.No.5431 of 2002)

A.Charles Devavaram

.. Petitioner

vs

- 1.The Government of Tamil Nadu
represented by the Secretary to
Government
Education Department
Fort St. George, Chennai 600 009
 - 2.The Director of Elementary Education
Chennai 600 006
 - 3.The District Elementary Educational
Officer
Cuddalore, Cuddalore District
- .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to fix the pay of the petitioner in the post of Middle School Headmaster for the period from 12.6.1995 to 31.5.2002.

For Petitioner : Mr.P.Rajendran

For Respondents : Mr.V.Subbiah
Special Government Pleader

ORDER

The petitioner would state that he was initially appointed as a Secondary Grade Teacher on 6.6.1963, and was promoted as Primary School Headmaster on 13.3.1995, and got subsequent promotion as Middle School Headmaster on 12.6.1995, and after attaining the age of superannuation, retired from service on 30.6.2001, and as the date of retirement has fallen during the middle of the academic year, he was re-employed till the end of the academic year viz. 31.5.2002.

2.It is the case of the petitioner that during July, 1974, the School, in which, he was working, viz. Panchayat Union Middle School, B.Mutlur, was upgraded as a High School and he was absorbed as Secondary Grade Teacher in the High School, but, without giving him any option, and as a consequence, his juniors, who continued in the Elementary School, became Primary School Headmasters and were getting higher pay than him, and moreover, the persons junior to the petitioner, who got promotion as Primary School Headmasters, were further promoted as Middle School Headmasters and however, the petitioner continued in the High School as Secondary Grade Teacher in the lesser scale of pay.

3.The petitioner would further state that he filed O.A.No.1705/1994, on the file of the Tamil Nadu Administrative Tribunal praying for appropriate direction to send him back to the Elementary School and vide order dated 10.6.1994, a direction was given directing the concerned authority to send the petitioner back to the Elementary School, and accordingly, he was absorbed in the Elementary School by the proceedings of the Chief Educational Officer, Cuddalore, dated 9.2.1995, as well as the proceedings of the District Elementary Educational Officer, Cuddalore, dated 27.2.1995, and got his promotion as Middle School Headmaster and worked in that capacity till the date of his retirement i.e., 30.6.2001.

4.The grievance now expressed by the petitioner, is that though he was reverted back to the Panchayat Union Unit and was promoted as Middle School Headmaster, the pay was not fixed in the scale of pay applicable to the Middle School Headmaster, and it was fixed in the scale of pay applicable to the Secondary Grade Teacher and the petitioner, in this regard, submitted numerous representations to the concerned authority to set right the anomaly and the District Elementary Educational Officer, Cuddalore, addressed a letter in Na.Ka.No.47/A5/2000 dated 6.11.2000, to the Director of Elementary Education with a copy marked to the petitioner, stating among other things, that as and when the Government issues clarification, the grievance of the petitioner would be redressed.

5.The petitioner would further state that he has not been favoured with any response even after the said communication and has also submitted a representation dated 2.7.2002, praying for conferment of the said benefit and since no orders have been passed, was constrained to approach the Tribunal by filing O.A.No.5431/2002.

6.Notice was ordered in the said O.A. and on abolition of the Tribunal, the said O.A. was transferred to this Court and re-numbered as W.P.No.5766 of 2007 (Tribunal).

7.The learned Counsel appearing for the petitioner, would submit that admittedly, no option was given to the petitioner while posting him as Secondary Grade Teacher in the High School and with great difficulty by instituting a litigation, he got reversion and in

the interregnum, his juniors got promotion twice and were also given the benefit of higher scale of pay and since he is placed above his juniors, he should be conferred with similar benefit and for the reasons best known to them, the official respondents did not choose to take any action so far and hence, prays for appropriate orders.

8.Per contra, Mr.V.Subbiah, learned Special Government Pleader, would submit that admittedly, while juniors were getting promotion, the petitioner was not working in Panchayat Union Middle School and therefore, he cannot claim similar benefit as that of the juniors, who continued to remain in service and got two promotions.

9.This Court has considered the rival submissions and also perused the materials placed before it.

10.No counter affidavit has been filed and therefore, the stand taken by the petitioner, that without calling upon him to exercise his option, he has been absorbed as Secondary Grade Teacher in High School, remained un rebutted. It is not in dispute that his juniors continued in Panchayat Union Middle School and got two promotions and their scales of pay also came to be fixed. At this juncture, the learned Special Government Pleader would submit that the petitioner may be permitted to submit one more representation to the first respondent praying for conferment of the said benefit, and the first respondent in turn, may be directed to dispose of the same within a stipulated time.

11.This Court, in the light of the facts and circumstances, permits the petitioner to submit one more representation to the first respondent by enclosing a copy of the order passed in this writ petition, as well as copies of the proceedings of the third respondent dated 6.11.2000, in Na.Ka.No.47/A5/2000, and his representation dated 2.7.2002, within a period of two weeks from the date of receipt of a copy of this order and the first respondent, on receipt of the same, shall consider it on merits and in accordance with law, after taking note of the observations made in this writ petition, and pass appropriate orders within a period of eight weeks thereafter and communicate the decision taken, to the petitioner. The writ petition is disposed of accordingly. No costs.

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Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

nsv

To:

- 1.The Secretary to Government
Education Department
Fort St. George, Chennai 600 009
- 2.The Director of Elementary Education
Chennai 600 006
- 3.The District Elementary Educational
Officer
Cuddalore, Cuddalore District

W.P.No.5766 of 2007

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