

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.31084 of 2015

M.Krishnaveni

... Petitioner

Vs.

1. The Government of Tamil Nadu
rep. by Principal Secretary to Government
School Education Department Fort St.George
Chennai-09
2. The Principal Secretary to Government
Government of Tamil Nadu
Finance (Pay Cell) Department
Fort St.George Chennai-09
3. The Director of Elementary Education
College Road Chennai-6.
4. The District Elementary Educational Officer
Erode District Erode.
5. The Additional Assistant
Elementary Educational Officer
Modakurichi Panchayat Union
Modakurichi Erode District.
6. The Accounts Officer
Office of the Principal Accountant General
(A&E) Anna Salai Chennai-018.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st respondent to consider the representation of the petitioner dated 6.8.2014 for extension of the protection clause given under Rule 4(3) of the Tamil Nadu Pay Scale Rules 1989 and G.O.Ms.No.57 dated 28.1.1991 to the pay scales introduced with effect from 1.1.2006 and issue a consequential

direction to the respondents to protect the pay of the petitioner in Selection grade scale of pay of Primary School Headmaster with effect from 1.1.2011 and then fix last pay drawn and grant pensionary benefits with arrears.

For Petitioner : Mr.R.Saseetharan

For Respondents : Mr.V.Subbiah for R1 to R5
Special Government Pleader
Mr.V.Vijaya Shankar for R6

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner would state that she was appointed as Higher Grade Teacher in Modakurichi Panchayat Union, Erode District on 02.11.1977 and got promotion as Primary School Headmaster in the same Panchayat Union on 09.01.2001. The petitioner's scale of pay was fixed at Rs.5,300 - 8,300 as per the revised scale of pay which came into being from 01.01.1996. The petitioner was conferred with selection grade scale of pay in the Post of Primary School Headmaster counting the service rendered as Secondary Grade Teacher on 10.09.2004 with effect from 01.09.2004. Her scale of pay was fixed at Rs.6,500 - 10,500 in terms of G.O.Ms.No.210 dated 27.10.1987 and G.O.Ms.No.212 dated 07.08.2000. The petitioner got further promotion as B.Ed. Middle School Headmaster in the same Panchayat Union on 25.10.2005.

3.The petitioner would further state that in terms of G.O.Ms.No.234 dated 01.06.2009, revised scales of pay have been introduced for its employees with effect from 01.01.2007 and no separate scale of pay for selection grade and special grade is given, instead 3% increase in basic pay is given on completion of 10/20 years of service and subsequently, on 08.11.2010, the Government once again introduced separate scales of pay for selection grade and special grade scales of pay.

4.The petitioner would further state that in terms of G.O.Ms.No.23, dated 12.01.2011, the Additional Assistant Elementary Educational Officer has fixed her pay in the post of selection grade scale of pay of Primary School Headmaster at Rs.15,600 - 39,100 with grade pay of Rs.5,400 with notional effect from 01.01.2006 and monetary benefit from 01.01.2011 and sent the proposal to the Accountant General and in the interregnum, she retired from service.

However, the fifth respondent has returned the proposal stating that on the date of retirement, she held the post of Middle School Headmaster and consequently, she is not entitled for higher grade pay of lower post and once again it was re-submitted and it was returned by the fifth respondent on 30.06.2014 stating that Rule 4(3) of the Tamil Nadu Revised Pay Scale Rules 1989 or G.O.Ms.No.57 dated 28.01.1991 is not applicable to her post after introduction of pay commission with effect from 01.01.2006. The petitioner in this regard, has submitted a representation dated 06.08.2014 to the respondents 1 and 2 to extend the protection clause of the above said Rule as well as the Government Order and since no orders have been passed, came forward to file this writ petition.

5.Heard the submissions of Mr.R.Saseetharan, learned counsel appearing for the petitioner, Mr.V.Subbiah, learned Special Government Pleader who accepts notice on behalf of the respondents 1 to 5 and Mr.V.Vijaya Shankar, learned counsel who accepts notice on behalf of the sixth respondent.

6.Though the petitioner prayed for a larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the same, directs the first respondent to consider and dispose of the petitioner's representation dated 06.08.2014 on merits and in accordance with law and pass orders within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

7.The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

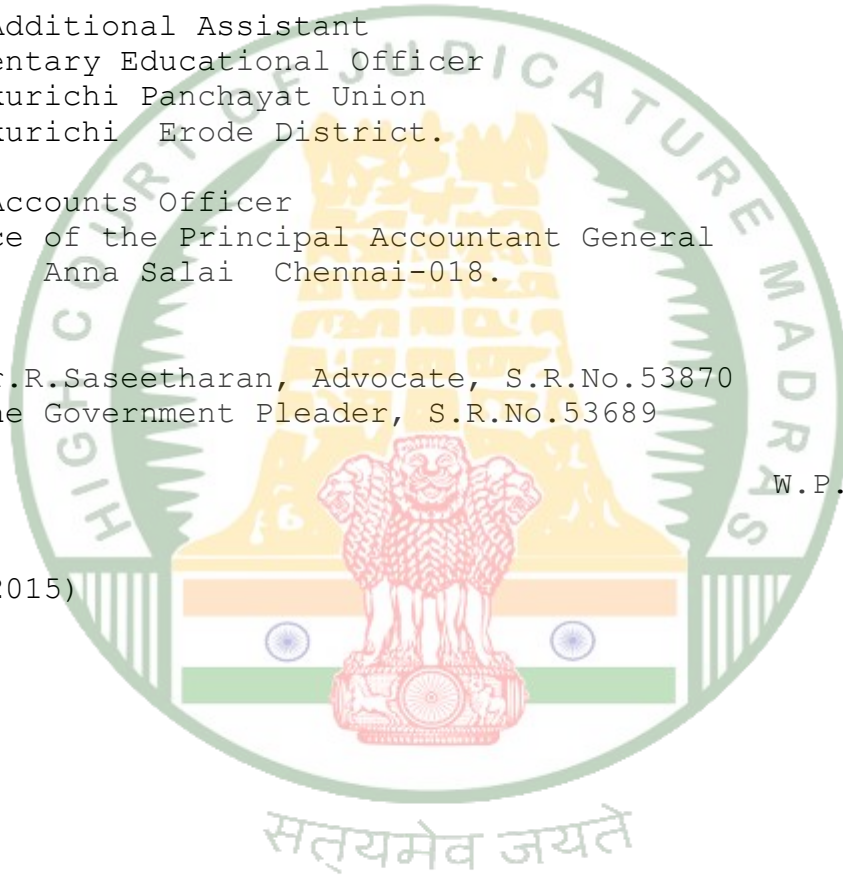
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+1cc to Mr.R.Saseetharan, Advocate, S.R.No.53870
+1cc to the Government Pleader, S.R.No.53689

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CA(14/10/2015)



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