

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2015

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.31558 of 2015

And

M.P.No.1 of 2015

S.Venkataraju

... Petitioner

Vs.

1. State Rep. by The Secretary
to Government School Education Department
Secretariat Fort St. George Chennai-9.
2. The Director of School Education
DPI Campus College Road
Chennai-6.
3. The Director of Elementary Education
DPI Campus College
Road Chennai-6.
4. The Chief Educational Officer
Krishnagiri Krishnagiri District.
5. The District Educational Officer
Hosur Krishnagiri District.
6. The District Elementary Educational Officer
Krishnagiri
Krishnagiri District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from making recovery from the salary payable to the petitioner based on the Audit Objections with reference to fixation of pay in the Post of B.T.Assistant (Tamil) in School Education with pay promotion OR in the alternative to direct the respondents to revert the petitioner to the Post of Middle School Headmaster in

Elementary Education - Parent Department with all consequential and other attendant benefits within a time frame to be fixed by this Honourable Court.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.S.Gunasekaran
Government Advocate

O R D E R

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

2.The petitioner was initially appointed as Secondary Grade Teacher in Elementary Education Department on 31.07.1995. Thereafter, based on his seniority was given promotion to the post of Primary School Headmaster on 01.06.2002 in the same Panchayat Union namely, Kelamangalam Union. The petitioner subsequently passed B.Lit Degree and based on his seniority and eligibility was given promotion as B.T.Assistant (Tamil) on 05.11.2007 and subsequently acquired B.Ed., qualification also.

3.The petitioner would further state that after acquiring the above said qualification, he was given promotion as B.T.Headmaster on 02.06.2008 and was posted in Panchayat Union Middle School, Bavanatham of the same Panchayat Union and his scale of pay was also fixed in the promoted post of Middle School Headmaster and subsequently transferred to the post of B.T.Headmaster in Panchayat Union Middle School, Unichetty in the year 2010. The petitioner continued to work as Middle School Headmaster of Unichetty Panchayat Union Middle School and the said school was also upgraded as High School during the academic year 2011-2012.

4.The petitioner exercised his option and hence, got absorbed as B.T.Assistant (Tamil) in the High School on 17.12.2011 and the petitioner became member of High School service to the post of B.T.Assistant (Tamil) from 17.12.2011 onwards and at present he is working in Government High School, Alenatham from 14.06.2013. The petitioner would state that consequent to his position he is allowed to continue and draw salary in pay band II of Rs.9,300 - 34,800 with grade pay of Rs.4,700/- and 3% of scale of pay was also granted on his promotion to the Middle School Headmaster and it has been protected on absorption into High School as B.T.Assistant (Tamil).

5.It is also stated by the petitioner that an audit objection was raised stating that his scale of pay ought to have been fixed in the post of B.T.Assistant (Tamil) with grade pay of Rs.4,600/- instead of Rs.4,700/- and it has also been stated that the petitioner is not entitled to 3% scale of pay granted to him on promotion. In this regard, the fifth respondent has also sent a communication to the Headmaster of Government High School, Unichetty, Thenkanikottai Taluk, Krishnagiri District. According to the petitioner the Zonal Accounts Officer, Audit Department of School Education, Coimbatore has also addressed a letter dated 27.02.2015 to the Headmaster of the said school stating that audit objection has been withdrawn.

6.The apprehension expressed by the petitioner is that in terms of the communication sent by the fifth respondent, recovery is likely to be effected and hence, came forward to file this writ petition. It is also brought to the knowledge of this Court that the petitioner has also submitted a representation dated 18.12.2014 to the second respondent praying for his reversion to the post of Department of Elementary Education and post him as Middle School Headmaster.

7.Heard the submissions of Mr.G.Sankaran, learned counsel appearing for the petitioner and Mr.S.Gunasekaran, learned Government Advocate who accepts notice on behalf of the respondents.

8.Though the petitioner prayed for the larger relief, this Court in the light of the above facts and circumstances, permits the petitioner to submit one more representation with regard to recovery based on the audit objection and also his request for transferring to the Department of Elementary Education and post him as Middle School Headmaster to the respondents 2 and 5 within a period of two weeks from the date of receipt of a copy of this order and the respondents 2 and 5 on receipt of the said representation are directed to consider and dispose of the said representation on merits and in accordance with law after taking note of the communication of the Zonal Accounts Officer, Audit Department of School Education, Coimbatore dated 27.02.2015 in Na.Ka.No.438/E13/2015 and pass orders within a period of eight weeks thereafter and communicate the decision taken, to the petitioner and till then, no precipitative action to recover the alleged excess payment, to be taken.

9.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government
School Education Department
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Krishnagiri District.

+1cc to Mr.G.Sankaran, Advocate, S.R.No.54871
+1cc to the Government Pleader, S.R.No.54762

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