

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.40065 of 2016

Y.Rama Krishnan

... Petitioner

vs.

1.The Government of Tamil Nadu,
Rep. by Secretary to Government,
School Education Department,
Fort St. George, Chennai- 600 009.

2.The Director of School Education,
College Road, Chennai-6. ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the second respondent to pass orders on the petitioner's representation dated 10.2.2016 regarding protection of higher pay in the lower post of Headmaster, Higher Secondary School for a fixation in the post of District Educational Officer, by applying Rule 4(3) of Tamil Nadu Private School Regulation Act and by applying Note Under Rule 7 of Tamil Nadu Revised Pay Scale Rules, 1998.

For Petitioner : Mr.R.Saseetharan

For Respondents : Mr.V.Anandhamoorthy,
Addl. Govt. Pleader (Edn.)

ORDER

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

2. The petitioner has come up with the present writ petition for a mandamus, directing the second respondent to pass orders on his representation dated 10.2.2016 regarding protection of higher pay in the lower post of Headmaster, Higher Secondary School for a fixation in the post of District Educational Officer, by applying Rule 4(3) of Tamil Nadu Private School Regulation Act and by applying Note Under Rule 7 of Tamil Nadu Revised Pay Scale Rules, 1998.

3. The case of the petitioner, in brief, is as follows:-

(a) The petitioner was initially appointed as B.T. Assistant on 15.7.1961. Later, he was promoted as Headmaster, High School on 7.7.1982 and then Headmaster, Higher Secondary School on 4.10.1994 and District Educational Officer on 25.2.1995 and Chief Educational Officer on 22.11.1996 and retired from service on 30.8.1997.

(b) The Government of Tamil Nadu introduced scale of pay for sixth time in G.O.Ms.No.162 dated 13.04.1998 and has granted scale of pay to the Tamil Nadu State Government employees on par with Central Government employees with effect from 1.1.1996. The Headmaster, High/Higher Secondary School have not been given Central Government Scale of pay as that of other employees. Therefore, the Government of Tamil Nadu by the G.O.Ms.No.720, dated 17.12.1998 has granted Rs.500/600 to the Headmaster, High/Higher Secondary School respectively so as to enable them to make the loss good, in the revision of scale of pay which is granted with effect from 1.1.1996. By the subsequent Government Order issued in G.O.Ms.No.163, dated 27.04.2009, the Government of Tamil Nadu has directed that the Headmaster, High/Higher Secondary School who retired between the period 1.1.1996 and 31.8.1998 are entitled for Personal Pay of Rs.500/600.

(c) The petitioner was holding the post of District Educational Officer on 25.2.1995, which carries the same scale of pay as that of Headmaster, High School, and no fixation was done in the post of District Educational Officer. He has not been granted personal pay of Rs.600/- on the ground that he was not holding the post of Headmaster, Higher Secondary School, as on 1.1.1996. Had the petitioner continued in the post of Headmaster, Higher Secondary School, he would have been given personal pay of Rs.600/- in the post of Higher Secondary School Headmaster, which carries same scale of pay as that of District Educational Officer. As on 1.1.1996, his pay was fixed in the post of District Educational Officer at Rs.10,750/- in the scale of pay of Rs.8000-13500 without personal pay. Therefore, the pay in the substantive post has to be protected by applying Rule 4 (3) of the Tamil Nadu Revised Pay Scale Rules, the personal pay of Rs.600/- has to be added and his pay in the regular post of District Educational Officer should have been fixed at Rs.10,750/- + 600 = Rs.11350/- and his pay should have been fixed at Rs.11,950/- in the post of Chief Educational Officer, by adding 5% increase for the pay fixation in the promotional post of Chief Educational Officer and thereafter, the same pay has to be protected again in the notional promotion also. In this regard, the petitioner made a representation dated 12.4.2016 to the respondents 1 and 2 requesting them to apply the said rule.

Since the same was not considered so far, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who has taken notice on behalf of the respondents.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the petitioner to send a fresh representation along with a copy of this order to the first respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the first respondent is directed to consider the same, regarding protection of higher pay in the lower post of Headmaster, Higher Secondary School for a fixation in the post of District Educational Officer, and pass appropriate orders, on merits and in accordance with law and also as per Rule 4(3) of Tamil Nadu Private School Regulation Act and by applying Note Under Rule 7 of Tamil Nadu Revised Pay Scale Rules, 1998, within a period of four weeks thereafter. It is made clear that this Court has not expressed any opinion with regard to the claim projected by the petitioner and it is for the first respondent to consider the claim of the petitioner strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

1.The Principal Secretary to Government,
State of Tamil Nadu,
School Education Department,
Secretariat, Fort St. George,
Chennai- 600 009.

2.The Director of School Education,
College Road, Chennai-6.

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