

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.40790 of 2016

S.S.Venkatesan

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep by the Secretary to Government School,
Education Department, Secretariat,
Fort St. George, Chennai-600 009.
- 2.The Director of State,
Education Research and Training Institute,
DPI Campus, College Road, Nungambakkam,
Chennai-600 006.
- 3.The Joint Director of school
Education (Panniyalar Thokuthi),
Office of the Director of School Education,
DPI Campus, College Road, Nungambakkam,
Chennai-600 006.
- 4.The Principal,
District Institute of Education Research
and Training Institute, Kaliampoondi,
Uthiramerur Taluk,
Kancheepuram District-603 402.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the 2nd respondent to consider the claim of the petitioner for fixation of the pay of the petitioner in the post of Lecturer duly taking into consideration of his last drawn pay in the post of B.T Assistant at Rs.13,670 + 4600 (GP) in the scale of pay of Rs.9300- 34800 + 4600 GP. and refix the scale of pay of the petitioner in the post of Lecturer accordingly with effect from 12.1.2010 and to grant annual increment w.e.f. 1.4.2010 with arrears of pay as per entitlement Under ruling (a) (b) and (c) of Rule 26 of Fundamental Rules read with the clarificatory orders issued in Govt. Lr. No. 44316/ 86-4 Department dated 29.8.1986.

For Petitioner : Mr.M.Arunkumar

For Respondents : Mr.V.Anandhamoorthy,
Additional Government Pleader

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 consider his claim for fixation of the pay in the post of Lecturer duly taking into consideration his last drawn pay in the post of B.T Assistant at Rs.13,670 + 4600 (GP) in the scale of pay of Rs.9300- 34800 + 4600 GP. and re-fix his scale of pay in the post of Lecturer accordingly with effect from 12.1.2010 and to grant annual increment w.e.f. 1.4.2010 with arrears of pay as per entitlement Under ruling (a) (b) and (c) of Rule 26 of Fundamental Rules read with the clarificatory orders issued in Govt. Lr. No. 44316/ 86-4 Department dated 29.8.1986.

3. It is the case of the petitioner that he was initially appointed as B.T. Assistant (Maths) in P.U.Middle School on 8.3.2006 at Malayankulam, Uthiramerur Panchayat Union. His service was also regularized in the said post with effect from 1.6.2006 and probation was declared on 31.5.2008. While he was working as B.T. Assistant in the said school, he was selected by the Teacher Recruitment Board for the post of Lecturer by proceedings dated 18.12.2009. Based on the said order, he was given posting as Lecturer in Maths at DIET, Kaliyampoondi, Kancheepuram District and in the said order of appointment, the pay scale was clearly indicated as Rs.9300-34800 with grade pay of Rs.4600/-. Based on the said order dated 18.12.2009, he was relieved from the post of B.T. Assistant and joined the new post without any break in service. While he was relieved from the post of B.T. Assistant from Middle School, he received the pay of Rs.13,670+4600 in the pay scale of Rs.9300-34800 based on his three years service. The scale of pay for the post of B.T. Assistant viz., Rs.9300-34800 is equivalent to the scale of pay for the post of Lecturer. Since the petitioner joined the new post without any break in service, he is entitled to receive his last pay of Rs.13,670 + 4600 in the new post. But, the respondents without considering his earlier service, fixed his starting pay as Rs.9300+4600. Hence, the petitioner made a representation to the Director of Teacher Education Research and Training, Chennai, through the Principal, DIET, Kaliyampoondi, Kancheepuram District on 15.3.2013 and 21.1.2014.

But, the same was not considered so far. Hence, 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, without going into the merits of the claim projected by the petitioner, this Court directs the petitioner to make a fresh representation along with a copy of this order to the second 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 second respondent is directed to consider the same seeking fixation of pay and pass appropriate orders, on merits and in accordance with law, within a period of six weeks thereafter. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sbi

To

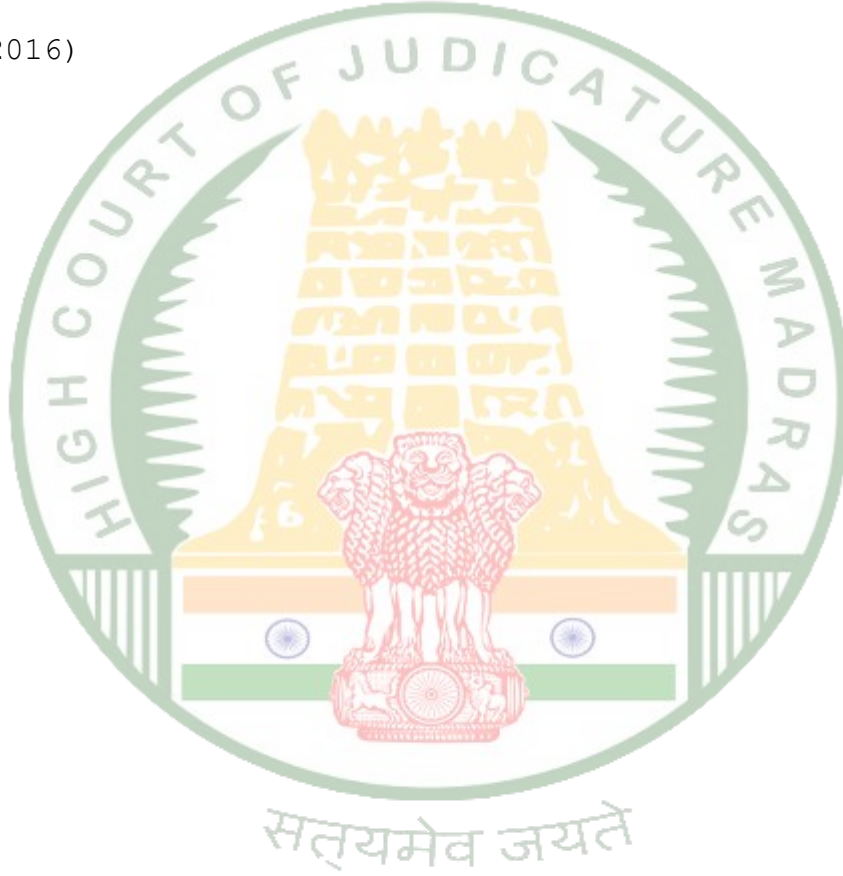
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+1cc to Mr.K.Thennan, Advocate, S.R.No.67359

W.P.No.40790 of 2016

NMI (CO)
CA(22/12/2016)



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