



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.12.2016

WEB COPY

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.12568 of 2016

and

W.M.P (MD) Nos.9493 to 9495 and 11392 of 2016

K.Srirengan

... Petitioner

vs.

- 1) The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St.George, Chennai-600 009.
- 2) The Director of Elementary Education,
College Road, Chennai-600 006.
- 3) The District Elementary Educational Officer,
Tirunelveli, Tirunelveli District.
- 4) The Additional Assistant Elementary Educational Officer,
Manur Union @ Rasta, Tirunelveli District.
- 5) Headmaster,
Panchayat Union Primary School,
Mela Pillaiyarkulam,
Manur Union,
Tirunelveli District.

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari, calling for the records relating to impugned proceedings issued by the 4th respondent herein in Na.Ka.No.1755/A1/2016 dated ...04.2016 (signed on 02.07.2016), quash the same.

For Petitioner : Mr.A.Ajith Geethan
For R1 to R4 : Mr.A.K.Baskara Pandian
Special Government Pleader

**ORDER**

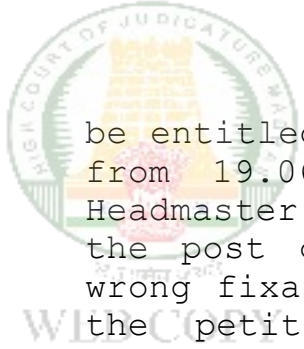
The petitioner has filed this writ petition for issuance of a Writ of Certiorari, calling for the records relating to impugned proceedings issued by the 4th respondent herein in Na.Ka.No.1755/A1/2016 dated ...04.2016 (signed on 02.07.2016), quash the same.

2.The petitioner was working as a Secondary Grade Teacher in Panchayat Union Primary School, Mela Pillaiyarkulam, Manur Union, Tirunelveli District. Subsequently, he was promoted as Primary School Headmaster in Thanjavur District, on 13.03.2003. Admittedly, there was no separate scale of pay for Selection Grade and the Special Grade. However, separate pay for Selection Grade and the Special Grade was provided to those who were awarded Selection Grade/Special Grade prior to 01.01.2006 and the petitioner was awarded Selection Grade in the post of Primary School Headmaster on 01.07.2013 in the scale of pay of Rs.9300-34800+4500. However, the petitioner relinquished the post of Primary School Headmaster and therefore, he was reverted to the original post of Secondary Grade Teacher with effect from 19.06.2014, as per the orders of the District Elementary Educational Officer, Thanjavur.

3.The grievance of the petitioner is that he was working as a Primary School Headmaster and was drawing the grade pay in the scale of pay applicable to that post, which is not only sought to be reduced with effect from 19.06.2014, but also the arrears, is sought to be recovered. It is further contended that when there is already a reduction in the grade pay, further reduction by way of recovery cannot be made.

4.The respondents have filed counter affidavit as well as the petition to vacate the order of interim injunction. Learned Special Government Pleader appearing for the respondents drew the attention of this Court to the impugned order, wherein, it has been stated that the petitioner was given the grade pay in the scale of pay applicable to the post of Primary School Headmaster and at the request of the petitioner, he was posted as Secondary Grade Teacher from 19.06.2014 and his salary has got to be refixed in the post of Secondary Grade Teacher, since the petitioner was given the same scale of pay applicable to that of Primary School Headmaster even after 19.06.2014, which sought to be recovered from 19.06.2014.

5.Even though the counter affidavit is silent about the scale of pay as well as the grade pay applicable to that of Selection Grade, this Court makes it very clear that the respondents would



be entitled to recover the arrears, if any, paid to the petitioner from 19.06.2014 in the scale of pay of the Primary School Headmaster and not in the scale of pay together with grade pay in the post of Secondary Grade Teacher. To make it precise, any wrong fixation made can be rectified, but not to the prejudice of the petitioner, as he has already worked in the post of Headmaster. Since at the request of the petitioner, he has been posted as Secondary Grade Teacher with effect from 19.06.2014, the petitioner would be entitled to the scale of pay applicable to that post together with grade pay and the scale of pay already paid to the petitioner upto 18.06.2014 in the post of Primary School Headmaster, shall not be recovered. If any excess salary is paid to the petitioner in the post of Secondary Grade Teacher, after 19.06.2014, the said amount alone can be recovered.

6. Accordingly, the impugned order is set aside to the extent mentioned supra. The Writ Petition is allowed to the abovesaid extent. No costs. The interim order already granted is vacated. Consequently, W.M.P(MD)Nos.9493 to 9495 and 11392 of 2016 are closed.

Sd/-
Deputy Registrar (J)

/True Copy/

Sub Assistant Registrar

To

- 1)The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St.George, Chennai-600 009.
- 2)The Director of Elementary Education,
College Road, Chennai-600 006.
- 3)The District Elementary Educational Officer,
Tirunelveli, Tirunelveli District.
- 4)The Additional Assistant Elementary Educational Officer,
Manur Union @ Rasta, Tirunelveli District.

+ 1 CC TO Mr.A.AJITH GEETHAN, ADVOCATE IN SR No. 80036
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 80282

NBI

TE/SKN : 27/12/2016 : 3P/7C