



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 06.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A. [MD] .No.105 of 2014

and

M.P. [MD]No.1 of 2014

1. The Secretary, Education Department,
Government of Tamil Nadu,
Fort. St. George, Chennai - 600 009.
2. The Director of Elementary Education,
College Road, Chennai - 6.
3. The Additional Assistant Elementary
Educational Officer,
Papanasam - 614 205. ... Appellants/ Respondents

Vs.

S.Jeya Balan ... Respondent/Petitioner

PRAYER : Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 13.02.2013 passed in W.P(MD).No.2116 of 2013.

Prayer in WP(MD). 2116/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 3rd respondent in his proceedings Na.Ka.No.1517/A2/2012 dated 20.09.2012 and quash the same as illegal and consequentially to direct the respondents 1 & 3 to pass suitable orders re-fixing the scale of pay with retrospective effect from 10.07.1986 and grant all service benefits including all attendant benefits with in the period that may be stipulated by this Honble COurt.

For Appellants

: Mr.T.S.Mohamed Mohideen,
Additional Government Pleader.

For Respondent

: Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

**JUDGMENT**

[Judgment of the Court was delivered by **G.R.SWAMINATHAN, J.**]

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The Education Department has filed this intra Court appeal, questioning the order dated 13 February, 2013 allowing W.P(MD). No.2116 of 2013, filed by the respondent herein.

2.The respondent herein is a retired Craft teacher. He was appointed on part time basis on 18 August, 1975. He was made a full time Craft teacher with effect from 10 July, 1986. Subsequently, G.O.Ms.No.1366, Education Department, dated 05 September, 1986 came to be passed and it prescribed the qualification of S.S.L.C for Craft teachers. The writ petitioner's pay scale was revised and fixed in the pay scale of Secondary Grade teacher. The audit section raised an objection that since the writ petitioner did not possess S.S.L.C qualification, he was not entitled to the benefit of revised scale of pay. Therefore, by order dated 30 November, 1998, the writ petitioner's pay scale was downgraded and recovery of Rs.63,914/- in 51 monthly installments was ordered. Questioning the same, the writ petitioner filed W.P.(MD).No.6533 of 2007 before the Madurai Bench of Madras High Court. The said writ petition was allowed on 09 April, 2010 on the ground that G.O.Ms.No.1366, Education Department, dated 05 September, 1986 cannot be retrospectively applied in the case of the writ petitioner. The writ petitioner was made a full time Craft teacher on 10 July, 1986. G.O.Ms.No.1366, Education Department, dated 05 September, 1986 was issued only on 05 September, 1986. Therefore, the question of applying the subsequently passed Government order in the case of the petitioner would not arise. On that basis, his writ petition was allowed by the learned single Judge. Even though the recovered amount of Rs.63,914/- was refunded, the authorities did not take steps to re-fix his scale of pay. Therefore, the writ petitioner submitted a fresh representation. The said representation was rejected by order dated 20 September, 2012 in Na.Ka.No.1157/A1/2012 by the third respondent in the writ petition.

3.Interestingly, the order rejecting the request of the writ petitioner invoked the very same G.O.Ms.No.1366, Education Department, dated 05 September, 1986. When this Court had already allowed W.P(MD).No.9597 of 2012 on the ground of inapplicability of G.O.Ms.No.1366, Education Department, dated 05 September, 1986 in the case of the writ petitioner, rejecting his request for re-fixation on the very same ground can only be

4. Therefore, the learned single Judge rightly allowed W.P. (MD).No.2116 of 2013. The respondents / appellants herein were rightly directed to re-fix the scale of pay of the writ petitioner as per the order of the Director of Elementary Education, Chennai-6, dated 03 November, 1987 and also pay the arrears on the basis of the revised pay scale. There is absolutely no justification in filing this writ appeal. Accordingly, it stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary Education Department,
Government of Tamil Nadu,
Fort. St. George, Chennai - 600 009.
2. The Director of Elementary Education,
College Road, Chennai - 6.
3. The Additional Assistant Elementary
Educational Officer,
Papanasam - 614 205.

+1cc to Spl. Government Pleader Sr.No.64018
+1cc to M/s Ajmal Associates Sr.No.63740

ARUL/SKM

VB/SV/SAR4/20.07.2017/3P/6C

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