



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.05.2017

CORAM :

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THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

W.P (MD) No. 3731 of 2016

C. Shanthi ... Petitioner

Vs.

1. The District Elementary Education Officer,
Pudukottai.2. The Assistant Elementary Education Officer,
Arimalam,
Pudukottai District.

... Respondents

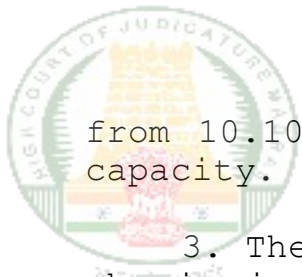
Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 2nd respondent in his proceedings bearing Na.Ka.No.633/A3/2015 dated 07.10.2015 and quash the same and with a consequential direction directing the respondents herein to rectify the pay anomaly of the petitioner with her junior, Lakshmi and re-fix the salary of the petitioner with all consequential monetary benefits.

For Petitioner : Mr. Porkodi Karnan
For M/s. Polax Legal Solutions
For Respondents : Mr. V. Muruganandam, AGP

ORDER

The prayer in the Writ Petition is for a writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the second respondent in his proceedings bearing Na.Ka.No.633/A3/2015 dated 07.10.2015 and quash the same and a consequential direction directing the respondents to rectify the pay anomaly of the petitioner with her junior Lakshmi and re-fix the salary of the petitioner with all consequential monetary benefits.

2. As per the affidavit averments, the petitioner was appointed as a Secondary Grade Teacher on 22.10.1988. She was promoted as a Primary School Headmistress on 30.07.1999, Subsequently, she was promoted as Headmistress of Middle School



from 10.10.2005 and presently, the petitioner is working in that capacity.

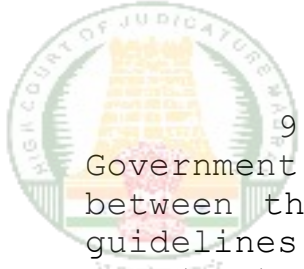
3. The further case of the petitioner is that one P.L.Lakshmi, who is junior to the petitioner was appointed as Secondary Grade Teacher on 15.12.1989 and was promoted as Headmistress of Primary School on 20.10.2009 (which is wrongly typed in the affidavit as 21.10.2009) and subsequently promoted as Headmistress of Middle School on 02.08.2010. She also got two incentives for higher educational qualification.

4. As per the initial appointment and also the subsequent promotions, the petitioner being the senior person than the said Lakshmi. However, the said Lakshmi was receiving higher pay than the petitioner as she was drawing Rs.20,170/- as monthly salary, whereas the petitioner was receiving only Rs.19,960/- from 02.08.2010. The said Lakshmi was drawing Rs.21,610/- as a Middle School Headmistress, whereas on the same cadre, the petitioner was receiving only Rs.20,560/-. Therefore, it became obvious that the salary of the petitioner has not been fixed properly as there is a pay anomaly which is palpable as her junior, admittedly getting higher pay than the petitioner and therefore, in order to rectify the said anomaly, the petitioner had approached the respondents.

5. However, by the impugned order dated 07.10.2015, the second respondent, by quoting the communication of the first respondent dated 14.08.2015, has informed the petitioner that the petitioner without even working as Primary School Headmistress had been directly promoted as Graduate Teacher or B.T., Assistant and then was promoted directly to the Middle School Headmistress, whereas the said junior was promoted as Primary School Headmistress and then Middle School Headmistress. Accordingly, the petitioner is not entitled to get any higher pay than the junior Lakshmi and therefore, her request was rejected. Challenging the said order of the second respondent, dated 07.10.2015, the petitioner has filed the present Writ Petition with the aforesaid prayer.

6. Mrs.Porkodikarnan, the learned counsel appearing for the petitioner would submit that the reasons cited in the impugned order is totally wrong as the petitioner has been promoted initially from the post of Secondary Grade Teacher to Primary School Headmistress and only then after working for some years as Primary School Headmistress, she was further promoted as Middle School Headmistress. Therefore, the very basis for the rejection of the petitioner's plea as has been made in the impugned order of the second respondent is against the fact and therefore, on that ground alone the impugned order is liable to be interfered with.

<https://hcservices.ecourts.gov.in/hcservices/>
7. The learned counsel for the petitioner would further submit that for rectification of this kind of pay anomaly, the Government



9. Per contra, Mr.V.Muruganandam, learned Additional Government Pleader would submit that if at all any pay anomaly between the two teachers, the same can be rectified, as per the guidelines given in the Government Order referred to above viz., G.O.(Ms.)No.25 dated 23.03.2015. Insofar as the present case is concerned, it may be a fact that the petitioner would have been promoted from the post of Primary School Headmistress to the post of Middle School Headmistress and if the petitioner's case is definite on this account that the petitioner has been promoted from the Primary School Headmistress to the Middle School Headmistress, then the same can be taken in to account and accordingly, revised decision can be taken by the authorities concerned.

10. Heard the learned counsel appearing for both sides.

11. Since the issue raised in this writ petition is in very narrow campus as admittedly, the petitioner being the senior than the one individual Lakshmi and she was drawing higher pay than the petitioner and also it is the fact that the petitioner had been properly promoted from secondary grade teacher to Primary School Headmistress and only thereafter, she was further promoted as Middle School Headmistress, the only reason adduced in the impugned order of the second respondent is palpably wrong and therefore, on that ground itself, the impugned order is liable to be interfered with. More over, if at all any pay anomaly, the same can be rectified only by the appropriate authority as per the guidelines issue by the Government from time to time in this regard. The petitioner's grievance can be rectified by the concerned authority at least by a District level Officer in the Department of Education by following the guidelines issued by the Government in G.O.(Ms.)No.25, cited supra and therefore, the present impugned order issued by the second respondent is in the opinion of the Court is unsustainable ad therefore, that is liable to be quashed.

12. In the result, the impugned order is quashed and the matter is remitted to the first respondent ie., District Elementary Education Officer, who in turn would call the relevant service records of the petitioner as well as the individual viz., Lakshmi and on consideration of the same, if the petitioner is senior than the said individual and if there is any pay anomaly between these two, the same can be rectified and accordingly, the pay of the petitioner shall be revised from the date her Junior got the higher pay and on rectification of the same, the dues shall be calculated accordingly and the pay arrears shall also be paid to the petitioner.

13. All these directions issued above shall be complied with by the first respondent within a period of eight weeks from the date of receipt of a copy of this order.



14. With these directions, the writ petition is allowed. No costs.

Sd/-

Assistant Registrar(Records)

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/True Copy/

Sub Assistant Registrar

To

1. The District Elementary Education Officer,
Pudukottai.
2. The Assistant Elementary Education Officer,
Arimalam,
Pudukottai District.

+1cc to Spl.Government Pleader Sr.No.55979
+1cc to M/s.Polax Legal Solutions, Sr.No.56044

SMI/PSD/RMK/DSS/NS/AKV

VB/GT/SAR1/23/11/2017/5P/5C

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