

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2018

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.14836 of 2008

T.Venkatesan

... Petitioner

Vs.

1. The Director of School Education
Chennai - 600 006.

2. The District Educational Officer,
Ariyalur District.

3. Mrs.Chandra

.... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent's rejection letter in O.Mu.No.79296/L1/03, dated 26.12.2003 and quash the same as null and void, consequently, direct the respondents to fix and sanction equal pay to the petitioner with that of his known junior with all arrears.

For Petitioner : Mr.R.Sreedharan

For R1 & R2 : Mr.K.Karthikeyan
Government Advocate

R3 served
No Appearance

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O R D E R

This Writ Petition has been filed to call for the records of the 1st respondent's rejection letter in O.Mu.No.79296/L1/03, dated 26.12.2003 and to quash the same as null and void, consequently, to direct the respondents to fix and sanction equal pay to the petitioner with that of his known junior with

all arrears.

2. The petitioner had joined the service as Assistant Head Master on 04.08.1971 and his service was regularised on 11.08.1978 vide order in D.Dis.No.106375/C19/78 of the Deputy Director of School Education, Madras (Sl.No.18, T.Palur, 04.08.1971 FN). He has also got his selection grade and special grade on 14.08.1981 and on 14.08.1991 respectively. On 02.01.1987, he has received two advance increments for acquiring M.Ed., Qualification and two incentive increments on 23.05.1989 for acquiring M.A. Degree.

3. The petitioner would contend that the 3rd respondent herein, is junior to him and when she was working in the post of Head Master with same qualification and in same category, she was getting more pay than him, hence, he made a representation by the letter in Na.Ka.No.01/02-03, dated 14.11.2002 to the 2nd respondent and Chief Educational Officer, Perambalur District. The 2nd respondent, by the letter in Na.Ka.No.10275/A3/2002 dated 18.12.2002, has forwarded and recommended the same to the 1st respondent, regarding fixation of equal pay, as the 3rd respondent was getting higher pay than the petitioner, but, the 1st respondent, without seeing the merit of the petitioner's request and recommendation of the 2nd respondent, has rejected the application by the letter in O.Mu.No.79296/L1/2003 dated 26.12.2003, stating that the 3rd respondent had passed the M.Ed., degree earlier to the petitioner and therefore, the petitioner could not get equality in pay. Hence, the petitioner, with no other alternative, has filed this Writ Petition, to quash the said letter dated 26.12.2003 and to direct the respondents to fix and sanction equal pay to him with that of his junior.

4. A counter has been filed by the respondents, wherein, it has been stated that the petitioner herein, was appointed as B.T.Assistant on 04.08.1971 and his service was regularised on 04.08.1971. After completion of 10 years of regular service, selection grade was awarded to him on 04.08.1981 and after completion of 20 years of service, special grade was awarded to him on 14.08.1991. Further, the petitioner was granted two advance increments on 02.01.1987 for having passed M.Ed., degree, and two incentive increments on 23.05.1989 for having passed M.A.Degree. Thereafter, he was promoted as Head Master on 17.08.2001 and finally, retired from service on 31.05.2004. Similarly, the 3rd respondent herein, namely, Mrs.Chandra, was appointed as B.T.Assistant on 01.09.1971 and her service was regularised on 01.09.1971. After completion of 10 years of regular service, selection grade was awarded to her on 15.09.1981 and after completion of 20 years of service, special grade was awarded to her on 15.09.1991. Further, on 31.10.1982,

she was granted two incentive increments for having passed M.Ed., degree and again on 27.05.1997 she was granted two incentive increment for having passed M.A.Degree.

5. It has been further stated in the respondent counter that both the petitioner and the 3rd respondent were appointed as B.T.Assistant in the scale of Rs.300-15-430-20-500 and both of them were getting equal pay i.e. Rs.720/- till 01.07.1982 in the scale of Rs.450-20-590-25-740-30-800. While so, on 31.12.1982, the junior Mrs.Chandra, the 3rd respondent herein, was granted two incentive increments for having acquired M.Ed., degree and thereby, her pay was raised to Rs.785/-. The petitioner has not acquired M.Ed., degree at that point of time, hence, his pay was not revised and as a result, he was getting lesser pay than his junior from 31.12.1982 to 31.05.1988.

6. Furthermore, it has been stated in the respondent counter that the pay of the junior Mrs.Chandra, was fixed higher than the petitioner on 31.12.1982 and thereafter, due to the implementation of the IV pay commission, her scale of pay was further raised to Rs.1,360/- on 01.10.1984. The petitioner could not reach the pay of his Junior till 31.05.1988, and only on 01.06.1988 i.e. after completion of M.Ed., degree, his pay was became equal to his Junior i.e. Rs.2000/-. According to rules, the pay of the senior can be stepped up on par with his junior, only if the senior was getting equal or higher pay than that of his junior, during his entire service. In the above case, the petitioner was getting lesser pay than his junior from 31.12.1982 to 31.05.1988 and therefore, his pay could not be stepped up on par with his Junior.

7. Moreover, the respondents have stated in their counter that the Government in G.O.MS.No.1400, Finance (pay commission) Department dated 21.12.1978, have ordered that the junior getting advance increment for possessing or acquiring higher qualification while the senior not getting it because he is not so qualified, shall not be considered as anomalous. In view of the said rule positions, the claim of the petitioner herein, to fix his pay on par with his junior cannot be complied with.

8. In view of the above, it could be seen that the 3rd respondent herein, namely, Mrs.Chandra, is junior to the petitioner herein and when was working in the post of Head Master, she was getting higher pay than the petitioner, hence, the petitioner has filed this Writ Petition, to fix and sanction equal pay to him with that of his junior with all arrears.

9. On perusal of the records, it could be seen that since the 3rd respondent has passed M.Ed., degree, her pay was raised to Rs.785/- on 31.12.1982, but, the petitioner has not passed

M.Ed., degree at that point of time, hence, his pay was not revised on the said date and further he could not reach the pay of his junior till 31.05.1988. Thereafter, the petitioner has completed the said degree and accordingly, his pay was also raised in equal to his junior (Rs.2000/-)

on 01.06.1988. Therefore, the petitioner cannot be compared his salary with that of his junior and his pay cannot be revised.

10. In view of the above stated facts, the petitioner's prayer cannot be entertained and accordingly, the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

raja

To

1. The Director of School Education
Chennai - 600 006.

2. The District Educational Officer,
Ariyalur District.

+1cc to Government Pleader SR.No.44531

सत्यमेव जयते

W.P.No.14836 of 2008

GMV (19/09/2018)

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