

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.46587 of 2006

J.Subramaniam Naidu

... Petitioner

Vs.

1.The Director of School Education,
College Road, Chennai - 600 006.

2.The Chief Educational Officer,
Thiruvallur, Thiruvallur District.

... Respondents

Prayer:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the second respondent in O.Mu.No.116/A5/2005 dated 14.07.2006 and quash the same and direct the respondent to fix the pay of the Petitioner on par with his junior Tmt.Prema, Tamil Pandit, Government Higher Secondary School, Poondi, Thiruvallur District.

For Petitioner : Mr.P.Rajendran

For Respondents : Mr.P.Raja,
Government Advocate.

O R D E R

सत्यमेव जयते

The petitioner filed this writ petition challenging the order dated 14.07.2006, to direct the second respondent to fix the pay of the petitioner on par with his junior Tmt.Prema, Tamil Pandit, Government Higher Secondary School, Poondi, Thiruvallur District.

2. The case of the petitioner is as follows:

The petitioner is working as Telugu Pandit, at the Government Girls Higher Secondary School, Tiruttani. The petitioner was initially appointed as Telugu Pandit on 04.11.1988 and he was continuously working as Telugu Pandit

without any promotion. However, one Mrs.Prema, who is junior to the petitioner working as Tamil Pandit and her services were regularized in the post of Tamil Pandit with effect from 16.09.1991 and she moved to selection grade with effect from 12.11.2001. Though, the petitioner was appointed prior to Mrs.prema, his services were regularized in the year 1988 and the petitioner was granted incentive increments for acquiring the higher qualifications, namely, M.A. on 04.11.1988 and M.Ed., on 20.05.1995. However, on account of incentive increments granted to one Mrs.Prema in the revised scale of pay, she began to draw higher pay than the petitioner. Aggrieved by the higher pay granted in favour of the junior Mrs.Prema, the petitioner made a representation to the second respondent praying for fixation of pay on par with his junior Mrs.Prema. The second respondent passed the impugned order rejecting his claim on the ground that there was a separate seniority for Tamil Pandit and Telugu Pandit against which the present writ petition has been filed.

3. The learned Counsel appearing for the petitioner would submit that the matter is squarely covered by the unreported decision of the Division Bench of this Court dated 03.02.2009 made in W.P.Nos.19856 of 2004 and 21732 of 2005. (K.Gangadharan and others Vs. The District Elementary Educational Officer and others), (P.M.Hameed Vs. The District Elementary Educational Officer and others), the relevant portion of which reads as follows:

"3. In O.A.No.1953 of 1989, dated 9.10.1990, the Tribunal examined the applicability of the Special Rule vis-a-vis, the desirability of appointing the language pandits in any school as Headmaster without the discrimination on the basis of the medium in which they are teaching. The Tribunal also held that such of those Malayalam teachers, who have passed Tamil alone have been provided the Headmaster Post and therefore, there is no difficulty in maintaining a common seniority list in respect of Gudalur District, wherein substantial number of malayalis are residing. In the absence of any challenge to the Tribunal's order, the respondent-State is bound to implement the said order unless the Rules are amended by the State in terms of introducing amendment by exercising the power under Article 309 of the Constitution of India. In the present case, such a rule has not been brought in. Therefore, the respondent-State is bound to implement the orders of the Tribunal. Hence, W.P.No.19856 of 2004 stands allowed as prayed for.

4. Writ Petition No.21732 of 2005 is directed against the consequential order of the Tribunal in O.A.No.4190 of 1992, dated 18.11.2003.

5. A perusal of the said order shows that the matter was heard by the Vice Chairman of the Tribunal and there is no reference to the earlier Tribunal's order. The respondents have not brought to the notice of the earlier order passed by the Tribunal, that too by a two Bench and because of this reason, the Tribunal went on its own and was convinced with the reasoning given by the Director vide his communication dated 20.5.2003. Since this Court has already allowed the other writ petition and directed the previous order of the Tribunal to be implemented, the reasoning found in O.A.No.4190 of 1992, dated 18.11.2003 cannot be countenanced by this Court. Hence, the order of the Tribunal stands set aside and the writ petition stands allowed."

4. On perusal of the above decision, the learned Additional Government Pleader appearing for the State stated that the second respondent maintained a common seniority for Telugu, Tamil, Malayalam and other languages. The petitioner's grievance is no longer available, since the Government decided to maintain a common seniority.

5. In view of such decision, if any pay anomaly in between the juniors and the seniors that have to be set right within a period of six weeks from the date of receipt of a copy of this order. With the above direction, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS IV)

//True copy//

Sub Assistant Registrar

msvm

To

1.The Director of School Education,
College Road,
Chennai - 600 006.

2.The Chief Educational Officer,
Thiruvallur, Thiruvallur District.

+1cc to Mr.P.Rajendran, Advocate SR.No.46972
+1cc to Government Pleader SR.No.48049

W.P.No.46587 of 2006

SS(CO)
GN(07/08/2018)



WEB COPY