

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.27721 of 2019

and

W.M.P.Nos.27248 & 27250 of 2019

M.Revathi

...Petitioner

Vs.

1.The Director of Elementary Education
DPI Campus, College Road
Chennai 600 006

2.The Chief Educational Officer
Villupuram District
Villupuram

3.The District Educational Officer
Tindivanam Education District
Villupuram District

4.The Assistant Elementary Educational Officer
(Presently the Block Educational Officer)
Olakkur Block
Villupuram District

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari Mandamus, to call for the records relating to the order passed by the fourth respondent in Na.Ka.No.398/A1/2017 dated 17.11.2017 and to quash the same and consequently direct the respondents to restore the revision of pay with revised annual increment as sanctioned as per the proceedings of the fourth respondent in Na.Ka.No.563/Sa/6/2015/A1 dated 19.06.2015.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.C.Munusamy
Spl. Govt. Pleader (Education)

O R D E R

This writ petition has been filed seeking to quash the order passed by the fourth respondent in Na.Ka.No.398/A1/2017 dated 17.11.2017 and consequently direct the respondents to restore the revision of pay with revised annual increment as sanctioned as per the proceedings of the fourth respondent in Na.Ka.No.563/Sa/6/2015/A1 dated 19.06.2015.

2.The petitioner was appointed as Secondary Grade Teacher in Government Aided Elementary School, Neikuppai, Olakkur Block, Villupuram District on 06.07.1992 and her appointment was duly approved by the Department. While in service as Secondary Grade Teacher in Government Aided School, her name was shown for appointment to the post of Secondary Grade Teacher in Government School in the year 1997. Based on the same, she was appointed to the post of Secondary Grade Teacher in Elementary Education on 08.08.1997. Thereafter, the petitioner was relieved from the aided school on 07.08.1997 and joined in Panchayat Union Middle School, Keezmavilangai on 08.08.1997 without any break in service. As per Fundamental Rules, the petitioner is entitled for counting of service rendered by her in aided school for fixation of pay sanctioned with increment and other service benefits. Subsequently, the A.E.E.O. Of Olakkur Block issued orders on 19.06.2015 for refixation of her scale of pay with revised annual increment by taking into consideration of the service rendered by her in aided school from 06.07.1992 to 07.08.1997. Thereafter, orders have issued for revision of pay with revised annual increment being sanctioned as per G.O.Ms.No.1072, dated 31.10.1986 and it was made clear that the petitioner is eligible to get arrears of pay and allowance, but she was not paid with arrears of salary as directed. While being so, on 17.11.2017, the A.E.E.O. cancelled the re-fixation of pay and for recovery of salary paid to the petitioner based on audit objection. While passing the order dated 17.11.2017, it was wrongly noted that the petitioner has received arrears of salary and the same is sought to be recovered. Challenging the same, the petitioner has preferred the present petition.

3.Heard Mr.G.Sankaran, learned counsel for the petitioner and Mr.C.Munusamy, Special Government Pleader appearing for the respondents.

4.The learned counsel for the petitioner would submit that the impugned order was issued without giving any show cause notice or opportunity. The petitioner submitted detailed objection to A.E.E.O. Olakkur Block, the 4th respondent herein, by referring to the fact that the revision of scale of pay with annual increment have been made by reckoning the period of service rendered in aided school as per Fundamental Rules as

amended in G.O.Ms.No.1072, dated 31.10.1986 and hence there cannot be any cancellation of revision of scale of pay granted to her. However, the revised salary has not been restore and she is forced to draw reduced salary from December 2017 onwards and suffering in respect of her eligibility as per Fundamental Rules. Without considering all the above facts, the 4th respondent has passed an order without application of mind and therefore, she seeks to set aside the order dated 17.11.2017 and remand the matter back to the concerned authorities for fresh consideration and pass appropriate orders.

5.The learned Special Government Pleader appearing for the respondents would concede to the request made by the learned counsel for the petitioner to remand the matter back to the authorities concerned.

6.In view of the limited prayer sought for by the petitioner, this Court is inclined to set aside the impugned order dated 17.11.2017, passed by the 4th respondent and the matter is remanded back to the authorities concern.

7.Accordingly, the order dated 17.11.2017 passed by the 4th respondent is set aside and the matter is remanded back to the authorities concern. The 4th respondent shall issue a show cause notice to the petitioner directing the petitioner to give explanation within a period of twelve weeks. Thereafter, the authorities concerned shall pass appropriate orders on merits and in accordance with law within a period of eight weeks after affording an opportunity to the petitioner.

8.With the above observation, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CJ Conf)

//True copy//

Sub Assistant Registrar

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To

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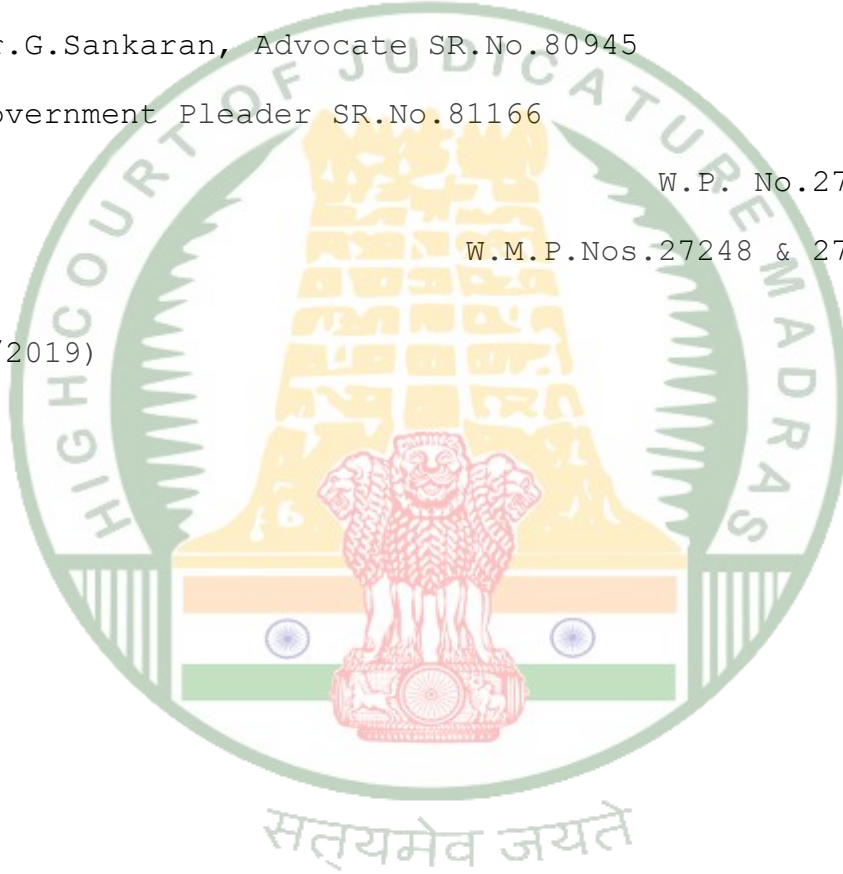
+1cc to Mr.G.Sankaran, Advocate SR.No.80945

+1cc to Government Pleader SR.No.81166

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GJ(CO)
GMY(25/10/2019)



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