

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.11.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No. 32658 of 2019

and

W.MP.Nos.33063 & 33064 of 2019

1 S.Sridevi Priya ...Petitioner

Vs

1 The Director of Elementary Education,
DPI Campus College Road,
Chennai - 600006.

2 The Chief Educational Officer,
Egmore, Chennai 600008.

3 The District Educational Officer,
Chennai East Education District
Lady Willington College Campus
Triplicane,
Chennai 600005.

4 The Block Educational Officer
A1, Rayapuram Range,
Chennai 600013.

... 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 Order passed by the 3rd respondent in Na.Ka.No. 1747/ A5/ 2019 dated 16.09.2019 and to quash the same in so far as the reduction of salary to Level-16 for the post of B.T. Assistant with effect from 01.01.2020 is concerned and consequently directing the respondents to sanction the increment in Level-17 for the post of Middle School Head Master as per the pay protection ordered including the sanctioning of selection grade pay for the post of Middle School Head Master from 01.01.2019 with consequential and attendant benefits.

For Petitioner	: Mr.G. Sankaran
For Respondents	: Mr.P.Raja, Government Advocate

O R D E R

The petitioner has filed this writ petition seeking issuance of a Writ of Certiorarified Mandamus to call for the records relating to the Order passed by the 3rd respondent in Na.Ka.No. 1747/ A5/ 2019 dated 16.09.2019 and to quash the same in so far as the reduction of salary to Level-16 for the post of B.T. Assistant with effect from 01.01.2020 is concerned and consequently directing the respondents to sanction the increment in Level-17 for the post of Middle School Head Master as per the pay protection ordered including the sanctioning of selection grade pay for the post of Middle School Head Master from 01.01.2019 with consequential and attendant benefits.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

3.The case of the petitioner is that the petitioner was qualified with B.Sc. (Botany) , B.Ed. and M.Sc, M.Ed. M.Phil and she is possessing requisite experience as Teacher. Based on the same, she was appointed as Headmistress of RJR Middle School, Korukkupettai, Chennai, a Government Aided School building on 08.11.2018. Consequently, 1st and 2nd respondents issued orders dated 10.01.2019 and 27.05.2019 respectively, for closure of RJR Middle School with effect from 01.06.2019 and as per the Proceedings of 3rd respondent during March 2019 all the teachers working in the School sought to be posted in the existing vacancies in other aided Middle School with pay and service protection. The orders passed by the 3rd respondent in March 2019, and the 4th respondent issued orders in May 2019 by stating that in the absence of vacancy in the post of Middle School Headmistress, the petitioner was transferred and posted as B.T. Assistant (Science) with pay protection, for which she was sought to be relieved with effect from 31.05.2019. The petitioner joined the post of B.T. Assistant (Science) in North Madras Social Service Middle School on 10.06.2019 and she continued to work as such till date. Consequent to her joining the post of B.T. Assistant (Science) in North Madras Social, Service Middle School, her salary has been fixed with pay protection in Level-17, Cell-19 in the pay scale of Rs.36700-116200. The District Educational Officer, Chennai East, the 3rd respondent herein issued orders dated 16.09.2019 by which it is stated that she was entitled for annual increment with effect from 01.01.2020 in the pay scale applicable to the post of B.T. Assistant in Level -16 in the pay scale of Rs.36400-115700 which remains to be a lesser scale of pay. From 01.06.2019, the petitioner has not been granted with selection grade scale of pay in the post of Middle School Headmistress to which the petitioner is eligible from January 2019. In this regard, the

petitioner had also submitted representation on 5.1.2019 to the Department seeking to sanction selection grade scale of pay from January 2019 and the same has not been considered by the respondents till date. The grievance of the petitioner is that the petitioner was transferred and posted as B.T. Assistant (Science) with pay protection with effect from 01.06.2019 vide order of 3rd respondent dated 27.05.2019. While so, the impugned order issued by the 3rd respondent dated 16.09.2019 revising the pay scale of the petitioner in Level -16 applicable to the post of B.T. Assistant is arbitrary, illegal and against the law and the same is liable to be quashed. The impugned order dated 16.09.2019 is passed without providing any opportunity to the petitioner with reference to the reduction of salary to the petitioner and therefore, the impugned order is liable to be quashed on that ground. Any other of alteration of condition of service cannot be without providing any opportunity is violation of provisions of natural justice. The petitioner has submitted representation seeking for sanctioning of selection grade in the post of Middle School Head Master with effect from 01.01.2019, which has not been considered till date and thereby the petitioner is deprived of her service benefits/salary benefits, however, till date the same has not been considered. Hence, this writ petition.

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4) Learned counsel appearing for the petitioner submits that without going into the merits of the matter, it would suffice if this Court permit the petitioner to file his objections before the 2nd respondent against the impugned order passed by the 3rd respondent and if any objection is filed this Court may issue direction to the 2nd respondent to pass appropriate orders in accordance with law.

5) Learned Government Advocate appearing for the respondents submit that if objection is filed by the petitioner before the 2nd respondent, the same would be considered and orders will be passed on the same in accordance with law.

6) Considering the request was made by the learned counsel for the petitioner, this Court permits the petitioner to file his objections before the 2nd respondent against the impugned order passed by the 3rd respondent. If any such objection is filed by the petitioner, the second respondent shall consider the same and pass appropriate orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

7) The writ petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petitions are closed."

s/d-
Assistant Registrar(CS-III)
Dated: 20.12.2019

*** Omitted and to be substituted
as per order of this Court
dated 11.02.2020, made in
WMP.No. 3524 of 2020 in
WP.No. 32658 of 2019**

S/d-
Assistant Registrar(CS-III)
Dated: 25.02.2020

True Copy

Sub-Assistant Registrar

To

- 1 The Director of Elementary Education,
DPI Campus College Road,
Chennai - 600006.
- 2 The Chief Educational Officer,
Egmore, Chennai 600008.
- 3 The District Educational Officer,
Chennai East Education District
Lady Willington College Campus
Triplicane, Chennai 600005.
- 4 The Block Educational Officer
A1, Rayapuram Range,
Chennai 600013.

+1 CC to The Govt. Pleader sr 11818

**To be substituted to the order dated 21.11.2019, made in
W.P.No. 32658 of 2019 & WMP.Nos. 33063 & 33064/2019 already
despatched on 23.01.2020.**

W.P.No.32658 of 2019

SR(CO)
SP(20/12/2019)
GN(25.02.2020)