



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.6659 of 2018

P.Selvakumar Francis

.. Petitioner

vs.

1.The District Elementary Educational Officer,
Tuticorin District.

2.The Additional Assistant Elementary
Educational Officer,
Alwarthirunagari Union,
Tuticorin District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 2nd respondent in his proceedings in Na.Ka.1481/A2/2017 dated 27.02.2018 and quash the same and direct the respondents to step up the petitioner's scale of pay with effect from 08.08.2016, the date on which his junior was given higher scale of pay with all consequential benefits thereof.

For Petitioner : Mr.V.Panneerselvam

For Respondents : Mrs.S.Srimathy
Special Government Pleader

ORDER

The Writ Petition is filed seeking to quash the impugned order of the second respondent in his proceedings in Na.Ka.1481/A2/2017 dated 27.02.2018 and direct the respondents to step up the petitioner's scale of pay with effect from 08.08.2016 the date on which his junior was given higher scale of pay with all consequential benefits.

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



3.The case of the petitioner is that he was initially appointed as a Secondary Grade Teacher on 28.07.1995 at the second respondent Union and after several promotions, he was promoted as Elementary School Headmaster on 23.07.2007 and till date he is continuing in the said post. According to the Petitioner, he joined in service on 28.07.1995 and one N.Kala, who joined in service on 04.08.1995, i.e., after the date of appointment of the petitioner, is drawing more pay than the petitioner. Hence to rectify the pay anomaly, the petitioner made a representation dated 08.12.2017 to the respondents and the same was rejected by the second respondent on 27.02.2018. Challenging the same, this writ petition has been filed.

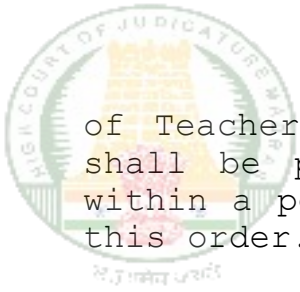
4.Both the learned Counsel would submit that the issue raised in this writ petition is covered by a number of decisions already settled in this regard. In those cases, the similar reason given by the respective authorities for rejecting the pay parity had been found to be unlawful and unjustifiable and accordingly, the reliefs were given to the individual employees.

5.The learned Counsel for the petitioner submitted that following the earlier decisions of this Court in W.P(MD).No.742 of 2018 dated 07.02.2018 in the case of K.Vijayarani Vs. The District Elementary Educational Officer, Thoothukudi and another and in WP (MD)No.8046 of 2018 [A.John peter Vs. The District Elementary Educational Officer, Sivagangai District], this Court has passed orders in W.P(MD).No.24551 of 2018 dated 19.02.2018. The relevant portion of the order is extracted as under:

"8.In view of the above said orders, it is clear that the issue raised in this writ petition is covered by the number of decisions, as the reason given in the impugned order was no more being a valid one and therefore, on that ground, this impugned order is liable to be quashed and accordingly, the same is quashed.

9.In the result, the first respondent is directed to rectify the pay anomaly in respect of the petitioner and accordingly, step-up his pay on par with his junior, who is getting higher pay irrespective of the place of joining office at the first instance, after selection to the post of Teacher and after calculating the same, the difference of pay shall be paid to the petitioner and the needful shall be done, within a period of six weeks from the date of receipt of a copy of this order."

6.Following the same, this Writ Petition is allowed and the impugned order of the second respondent dated 27.02.2018 is quashed. The second respondent is directed to rectify the pay anomaly in respect of the petitioner and accordingly, step-up his pay on par with his junior, who is getting higher pay irrespective of the place of joining office at the first instance, after selection to the post



of Teacher and after calculating the same, the difference of pay shall be paid to the petitioner and the needful shall be done, within a period of six weeks from the date of receipt of a copy of this order. No costs.

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Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar(CS)

To

1.The District Elementary Educational Officer,
Tuticorin District.

2.The Additional Assistant Elementary
Educational Officer,
Alwarthirunagari Union,
Tuticorin District.

+1 CC to M/s.V.PANNEER SELVAM, Advocate (SR-64132[F] dated
30/04/2019)

+1 CC to M/s.SPL GP (SR-65039[F] dated 02/05/2019)

W.P(MD) No.6659 of 2018
29.04.2019

CS: 29/05/2019/3P/5C