



WEB COPY

WA.(MD)No.1220 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD)No.1220 of 2019

and

C.M.P. (MD)No.10508 of 2019

- 1.The Director of Elementary Education,
Office of the Director of Elementary Education,
Chennai.
- 2.The District Educational Officer,
Office of the District Educational Officer,
Madurai.
- 3.The Assistant Elementary Educational Officer,
(Now the Block Educational Officer),
Office of the District Elementary Educational Officer,
T.Vadipatti. ... Appellants

Vs.

I.Poongodi

..Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letter Patent Act, to set aside the order dated 13.03.2019 in W.P.(MD)No.4231 of 2019 and allot the writ appeal.

Prayer in WP(MD). 4231/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in Na.Ka.No.7144/ A4/ 2018 dated 18.01.2019 passed by the 2nd respondent and to quash the same as illegal and consequently direct the respondents to set right the pay anomaly of the petitioner on par with junior of the petitioner pass such further or other orders as this Honourable Court may deem fit

For Appellants

: Mrs.S.Srimathy
Special Government Pleader

For Respondent

: Mr.K.Muthuganesa Pandian



JUDGMENT

[Judgment of this Court was delivered by **T.S.SIVAGNANAM, J.**]

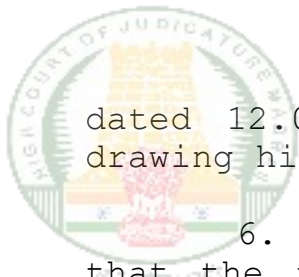
Heard Mrs.S.Srimathy, learned Special Government Pleader for the appellants and Mr.K.Muthuganesa Pandian, learned counsel for the respondent. By consent on either side, this writ appeal is taken up for final disposal.

2. This appeal by the Director of Elementary Education and two others is directed against the order, dated 13.03.2019 made in W.P.(MD)No.4231 of 2019. The writ petition was filed by the respondent herein to quash the order passed by the second appellant, dated 18.01.2019 and to direct the appellants to set right the pay anomaly of the respondent on par with his junior. The learned writ Court had allowed the writ petition taking note of the directions issued in W.P.(MD)No.742 of 2018, dated 07.02.2018.

3. In this appeal, the appellants contended that the question of seniority would not arise, because the respondent / writ petitioner was joined in different Panchayat School, whereas the so called junior, namely, Mr.R.Muthu Nesam was appointed in different Panchayat School and later got transferred to T.Vadipatti Union. Therefore, the question of stating that the writ petitioner is senior to the other person does not arise.

4. The learned counsel for the respondent / writ petitioner has drawn the attention of this Court to the comparative chart annexed to the representation given by the petitioner. On a perusal of the same, it could be seen that the writ petitioner was earlier working at Thoppampatti Panchayat Union School and R.Muthu Nesam was working at Kadamalai Mayiladumparai Panchayat Union. On going by the date of appointment of both individuals, the respondent / writ petitioner was appointed at earlier than R.Muthu Nesam. The respondent / writ petitioner was transferred to T.Vadipattai Panchayat Union in the year 1987, whereas R.Muthu Nesam was transferred in the year 1990. The probation of the writ petitioner was declared on 31.09.1987, whereas it was declared for R.Muthu Nesam on 22.10.1987. Selection grade was also granted to the respondent at earlier than R.Muthu Nesam.

5. We got better clarity on perusal of the tabulated statement filed by the writ petitioner in the affidavit filed in support of the writ petition in paragraph 4. From perusal of the same, it is seen that upto 01.10.1996, after the implementation of the sixth pay commission, the basic pay drawn by the respondent / writ petitioner was much higher, i.e., he was drawing Rs.17,150/- + Rs.4,700/-, whereas R.Muthu Nesam was drawing Rs.16,650/- + Rs.4,700/-. On implementation of G.O.Ms.23, Finance (Pay Cell),



dated 12.01.2011, the pay stood revised and R.Muthu Nesam was drawing higher scale of pay.

6. The only argument put forth before us in this appeal is that the respondent / writ petitioner cannot compare himself to R.Muthu Nesam, because, the respondent / writ petitioner was working in a different Panchayat Union and transferred to T.Vadipatti. However, the case of R.Muthu Nesam also is not different. Therefore, the distinction sought to be drawn by the appellants is not sustainable. Further more, there is nothing on record to show that R.Muthu Nesam was drawing higher pay, while he was working in Kadamalai Mayiladumparai, Panchayat Union for the appellants to contend that it is a reason for granting higher pay to R.Muthu Nesam.

7. Therefore, we are of the considered view that the respondent / writ petitioner pay has to be set out over his junior in T.Vadipatti. Therefore, we find that the direction issued by the learned writ Court calls for no interference. Accordingly, this appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (w)

// True Copy //

Sub Assistant Registrar (CS)

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To

- 1.The Director of Elementary Education,
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- 2.The District Educational Officer,
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Madurai.
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(Now the Block Educational Officer),
Office of the District Elementary Educational Officer,
T.Vadipatti.

+1 CC to M/s.GP (SR-99047[F] dated 18/11/2019)

ORDER MADE IN

W.A. (MD)No.1220 of 2019

14.11.2019