

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.11.2020

Coram

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.1458 of 2014

C.Ramasamy

..Petitioner

-vs -

1. Director of School Education,
Chennai - 600 006.

2. Chief Educational Officer,
Erode,
Erode District.

3. District Educational Officer,
Gobichettipalayam,
Erode District.

..Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 3rd respondent in his Proceedings Na.Ka. No.3717/Aa2/2013, dated 28.11.2013 and quash the same and direct the respondents to step up the scale of pay of the petitioner on par with that of his junior V.Kanagasabapathy and confer all the consequential benefits.

For Petitioner : Mr.P.Ganesan
for M/s.C.S. Associates

For Respondents : Mr.S.Suresh Kumar,
Government Advocate

ORDER

(This case has been heard through video conference)

This writ petition has been filed to quash the order in Proceedings Na.Ka. No.3717/Aa2/2013, dated 28.11.2013 passed by the third respondent and for a direction to the respondents to step up the scale of pay of the petitioner on par with that of his junior V.Kanagasabapathy and confer all consequential benefits.

2. It is the case of the petitioner that he was appointed as B.T. Assistant on the basis of Rule 10 (a) (i) of

the Tamil Nadu State and Subordinate Services. His services was regularised on 30.11.1982 and he was moved to Selection Grade on 30.11.1992 and thereafter promoted as P.G. Assistant, however he was posted as equivalent of Headmaster of High School. It is the further averment of the petitioner that pursuant to the recommendations of the Pay Commission, as on 01.01.1996, his junior V.Kanagasabapathy was getting scale of pay of Rs.6900, whereas his pay was fixed at Rs.6,700/-, which reveals that person, junior to the petitioner is getting more pay, though both of them are possessed of similar qualification. Though he submitted representation for stepping up his scale of pay, the same rejected by the Joint Director on the ground that the rank assigned by the Commission to V.Kanagasabapathy was higher than that of the petitioner. It is further averred that though the services of his junior was regularised only on 23.02.1983 much later than his services, i.e., on 30.11.1982, and even in the selection grade scale, the petitioner was in receipt of the said grade earlier in point of time, pursuant to the pay commission, the pay of his junior is more and hence, he claimed for stepping of his pay. The rejection of his representation has resulted in the filing of the present writ petition.

3. Learned counsel for the petitioner submits that based on the date of regularisation, the said Kanagasabapthy, who was junior to the petitioner was getting more pay. It is further submitted that pay of similalry placed persons were stepped up but in the case of the petitioner, different yardstick was followed. It is further submitted that based on the length of services put in by the petitioner, the respondents have to step up the scale of pay on par with his junior and the petitioner is not claiming seniority overlooking the rank assigned by the Commission. Accordingly, the impugned order dated 28.11.2013, passed by the third respondent is liable to be set aside.

4. Learned Government Advocate appearing for the respondents fairly submitted that as per the ranking assigned by the Commission, the petitioner was positioned at 1825, whereas V.Kanagasabapathy was positioned at 1715. It is further submitted by the petitioner that the date of joining is not relevant but only the rank assigned by the between two persons, while they were selected. It is the further submission of the learned Government Advocate that the petitioner having failed to establish that his seniority is higher than the person, who is alleged to be getting more pay, the contention raised by the petitioner for stepping up his scale of pay on par with another person is impermissible and unsustainable. Accordingly, he prays for dismissal of the present petition.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. On perusal, it is not in dispute that the date of regularisation of services of the petitioner is much prior to the date of regularisation of V.Kanagasabapathy and the movement of the petitioner to selection grade was earlier in point of time to the said Kanagasabapathy. Thus the seniors claiming pay parity with juniors is a constitutional right guaranteed under Article 39(d) read with Article 14 of the Constitution. However, in the present case, the said authority rejected stepping up of pay of the petitioner on par with V.Kanagasabapathy based on the ranking assigned by the Commission, which is evident from the Proceedings, dated 24.06.2008 itself. Even it is not disputed by the petitioner that the said Kanagasabapathy has been assigned higher rank to that of the petitioner. Equally it is not disputed that the petitioner has been regularised in service as well as granted selection grade earlier in point of time to the said Kanagasabapathy. In the said backdrop, without challenging the proceedings relating to the rank assigned to the petitioner and Kanagasabapathy vis-a-vis their regularisation and grant of selection grade scale of pay, mere submission of the representation, which was rejected by the respondents and challenging the said rejection alone would not suffice to accede to the request of the petitioner for stepping up the scale of pay. Therefore, the prayer as sought for by the petitioner does not deserve positive consideration at the hands of this Court. In such circumstances, this Court is of the view that no interference is warranted with the order impugned herein.

7. For the foregoing reasons, the writ petition sans merit is liable to be rejected and, accordingly, the same is dismissed. However, there shall be no order as to costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

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

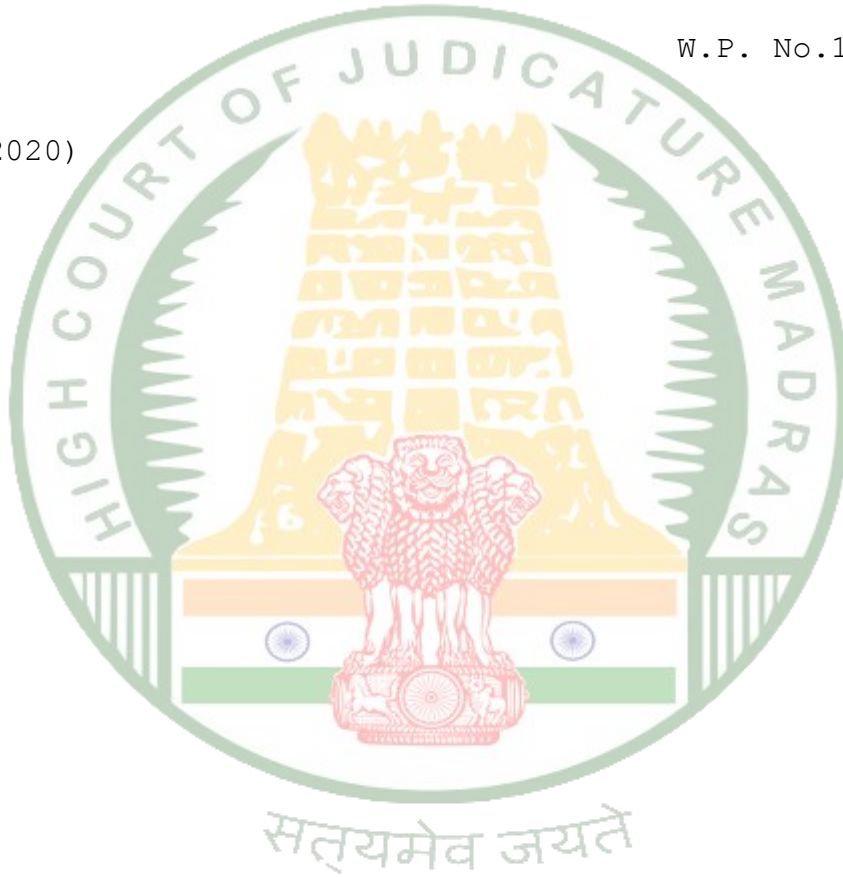
2. The Chief Educational Officer,
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3. The District Educational Officer,
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Erode District.

+1 CC to M/s.C.S. Associates sr 35592.
+1 CC to The Government Pleader sr 35635.

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SP(10/12/2020)



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