

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2020

CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.35512 of 2019
& WMP No.36351 of 2019

Mr.P.V.Venkatesan

.. Petitioner

Vs

1.The Principal Secretary to Government,
School Education Department,
Fort St. George, Chennai-600 009

2.The Commissioner of Education,
D.P.I.Campus,
College Road, Chennai-06

3.The Director of Elementary Education,
D.P.I.Campus, College Road,
Nungambakam, Chennai-06

4.The District Educational Officer,
Tirutanni-631 209,
Thiruvallur District.

5.The Block Educational Officer-I,
Pallipattu,
Thiruvallur District

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned order issued by the 5th respondent in proceedings A.Thi.Mu.No.473/A/2015 dated 15.09.2015 and quash the same and consequently direct the respondents to step up the pay of the petitioner on par with her junior Mrs.N.B.Indrani and accordingly, revise his Pension and other Pensionary benefits with all consequential service and monetary benefits.

For Petitioner : Mr.Swadhi Subramaniam

For Respondent : Mrs.V.Annalakshmi, GA

ORDER

This Writ Petition has been filed challenging the rejection order passed by the fifth respondent by proceedings dated 15.09.2015 and consequently, to direct the respondents to step up the pay of the petitioner on par with his junior

and to revise the Pension with all attendant benefits.

2. The case of the petitioner is that he was appointed as Secondary Grade Teacher in the year 1987 and his services were also regularized. Subsequently, the petitioner was transferred to Pallipattu Union and posted as Secondary Grade Teacher in Panchayat Union Primary School. He joined in the transferred post on 01.06.1988. Thereafter, the petitioner was promoted as Secondary Grade Head Master in the year 2001 and thereafter, as BT(Graduate) Head Master in the year 2010. The petitioner ultimately attained superannuation on 31.03.2019.

3. The grievance of the petitioner is that one N.B.Indrani, who was initially appointed as Secondary Grade Teacher in the same Pallipet Union on 03.10.1988, much after the appointment of the petitioner, is receiving a higher scale of pay and therefore, the petitioner wanted to set right this anomaly by stepping up the pay of the petitioner on par with his junior. A representation made by the petitioner in this regard was rejected by the fifth respondent and hence, present writ petition has been filed before this Court.

4. Heard, Mr.Swadhi Subramaniam, learned counsel appearing for the petitioner and Mrs.V.Annalakshmi, learned Government Advocate appearing for the respondents.

5. For a proper understanding of the facts of the case, the service particulars of the petitioner and one N.B.Indrani are tabulated below:

Particulars regarding the petitioner	Particulars regarding the junior N.B.Indrani
(a) The petitioner was posted as Secondary Grade Teacher at Pallipet Union on 01.06.1988	(a) She was posted as Secondary Grade Teacher on 03.10.1988
(b)The petitioner was promoted as Secondary Grade Head Master on 18.06.2001	(b) She was promoted as Secondary Grade Head Master on 28.03.2003
(c) The petitioner was promoted as BT (Graduate) Head Master on 02.06.2010	(c)She was promoted as the Middle School Head Master on 01.06.2013

6. It is clear from the above Tabular Column that the petitioner was senior to the said Indrani at every stage. The grievance of the petitioner is that the said Indrani was drawing the higher scale of pay and therefore, the petitioner wanted to set right this anomaly by stepping up his pay on par with his junior.

7. The fifth respondent has rejected the claim made by the petitioner only on the ground that this anomaly can be set right only if the petitioner and his junior belong to the same

Division. It is not known as to why the fifth respondent returned the file on this ground since from the records, it is clear that both the petitioner and Indrani were working in the same Division at Pallipet Union. Therefore, the very reasoning of the fifth respondent is factually wrong.

8. At this juncture, it will be relevant to rely upon the judgment passed by this Court in the case of K.Vijayarani Vs. The District Elementary Educational Officer, Thoothukudi and Another in WP(MD) No.742 of 2018 dated 07.02.2018, wherein, this Court dealt with a similar issue. The relevant portions of the above judgment is extracted herein:

3. The petitioner was appointed as Secondary Teacher on 08.08.1997 in Pudukottai Panchayat Primary School. On her request, she got transferred to Kayathar Union on 04.07.1998. The petitioner is presently working as a Headmaster in Kayathar Union. The grievance of the petitioner is that one Shanthi, who was appointed as Secondary Grade Teacher in Kayathar Union on 11.01.1999 is drawing more pay. Citing this pay anomaly the petitioner submitted a representation to the District Elementary Educational Officer on 05.07.2017. The petitioner has also enclosed the comparative chart. It is obvious therefrom that the said Shanthi was appointed in Kayathar Union later in point of time.

4. The learned Counsel appearing for the petitioner drew the attention of this Court to the proceedings dated 25.05.2017, issued by the District Elementary Educational Officer, Tuticorin whereby, a similar pay anomaly in the case of one Mrs.Rani was set right. The petitioner's case is identical. However, the first respondent declined to accept the request of the petitioner.

5. The first respondent has proceeded on the footing that since the petitioner got transferred from Pudukottai to Kayathar Union, it is not possible to set right the pay anomaly. The reason assigned by the first respondent in the impugned order is un-sustainable in law. Even though the writ petitioner came to Kayathar Union by way of transfer and has to be placed at the bottom of the seniority list, the fact remains that the Shanthi got appointment as Secondary Grade Teacher at Kayatharu Union only later in point of time. Therefore, by no stretch of imagination the said Shanthi could have

stolen a march over the petitioner. The order impugned in this writ petition is quashed. The respondents are directed to set right the pay anomaly and step-up the pay of the petitioner on par with said Shanthi. Such an order shall be issued by the respondents within a period of eight weeks.''

The above judgment will squarely apply to the facts of the present case. Even in the present case, the petitioner is very much senior to the said Indrani at every stage and therefore, the petitioner is entitled for stepping up of pay on par with his junior.

9. In view of the above discussion, the impugned proceedings of the fifth respondent vide in No.A.Thi.Mu.No.473/A/2015 dated 15.09.2015 is hereby quashed and the fifth respondent is directed to forward the proposal to the third respondent and the third respondent is directed to pass appropriate orders stepping up the pay of the petitioner on par with his junior and grant the petitioner with all attendant benefits. The petitioner shall make a representation to the fifth respondent alongwith a copy of this order. The fifth respondent shall collect the particulars and forward the same to the third respondent within a period of four weeks thereafter. The third respondent, on receipt of the proposal shall pass final orders by stepping up the pay within a period of six weeks thereafter, by granting all attendant benefits to the petitioner.

10. This Writ Petition is allowed accordingly. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

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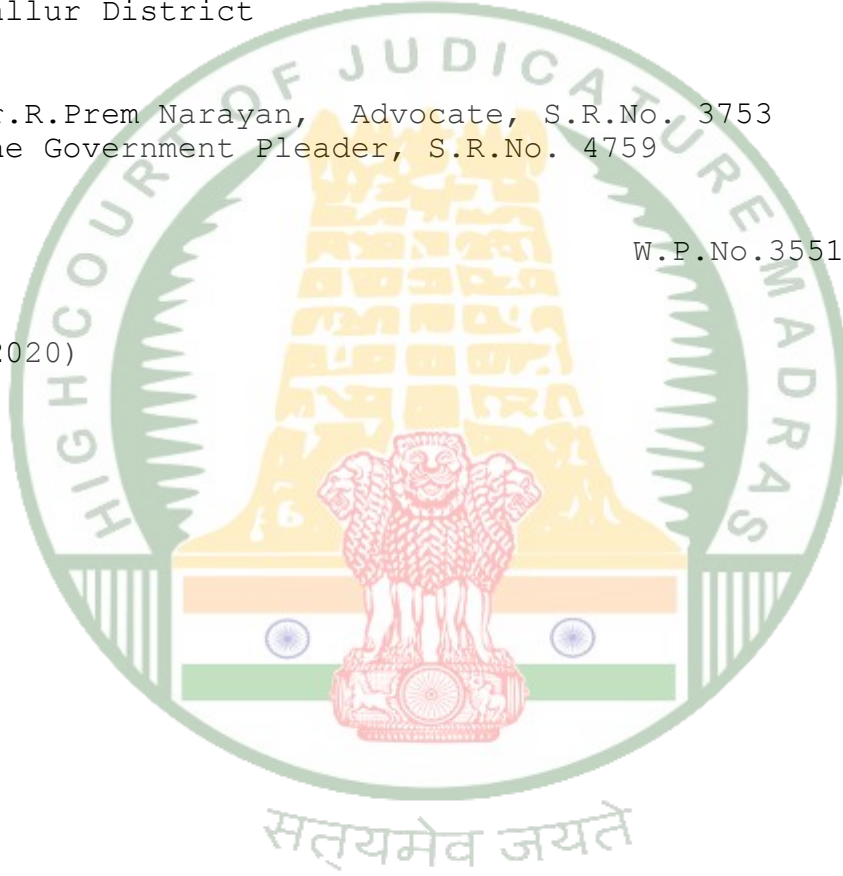
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+1cc to Mr.R.Prem Narayan, Advocate, S.R.No. 3753
+1cc to the Government Pleader, S.R.No. 4759

W.P.No.35512 of 2019

SJ(CO)
GN(21/02/2020)



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