



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 05.10.2020**

**CORAM:**

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**W.P. (MD)No.9705 of 2009**

**and**

**M.P(MD).No.1 of 2013**

P.Kasikani

... Petitioner

Vs.

1.The Accountant General of Tamil Nadu  
Chennai-18.

2.The Director of School Education,  
Chennai-16.

3.The District Educational Officer,  
Virudhunagar.

... Respondents

**PRAYER:** Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to fix the petitioner's pay in the post of High School Headmaster as per Fundamental Rule 22(B) and disburse the benefits within a time frame fixed by this Court.

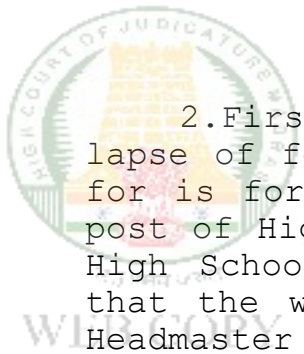
For Petitioner : Mr.R.Subramanian

For R2 and R3 : Mrs.S.Srimathi  
Special Government Pleader

For R1 : Mr.P.Gunasekaran

**ORDER**

This writ petition is filed by the State pensioner, who is aged about 62 years, at the time of filing the writ petition. The relief sought for in the present writ petition is for a direction to direct the respondent to fix the petitioner's pay in the post of High School Headmaster, as per Fundamental Rules 22(B) and disburse the benefits within the time frame fixed by this Court.



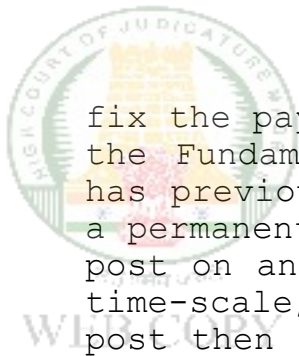
2.First of all, the writ petition itself is filed, after a lapse of four years from the date of retirement. The relief sought for is for revision of pay with reference to his promotion in the post of High School Headmaster. The writ petitioner was promoted as High School Headmaster on 20.06.2002. It is relevant to consider that the writ petitioner was promoted to the post of High School Headmaster in the year 2002 and he attained the age of superannuation and retired from service on 31.07.2005 and the writ petition was filed on 29.09.2009, after a lapse of about 17 years from the date of promotion, four years from the date of retirement. Thus, the entertainability of the writ petition is questionable. The writ petitioner was working as a High School Headmaster and he cannot plead any ignorance of the service condition. Thus, the writ petition is liable to be rejected on the ground of laches itself.

3.Even on merits, the learned counsels appearing on behalf of the respondents, more specifically, the learned Special Government Pleader as well as the learned counsel appearing on behalf of the first respondent Accountant General, reiterated that the pay was fixed in the post of High School Headmaster as per the Rules in force and therefore, the relief sought for in the present writ petition cannot be granted at all. At this juncture, it is relevant to refer the Rule 22B(iii) of the Fundamental Rules, which reads as under:

*"(iii)a permanent post on an identical time-scale or a temporary post on an identical time-scale, such post being on the same time-scale as a permanent post then the initial pay shall not be less than the pay other than special pay, personal pay or emoluments classed as pay by Government under rule 9(21)(a)(iii) which he drew on the last such occasion and he shall count the period during which he drew that pay on such last occasion and any previous occasions, for increment in the stage of the time-scale equivalent to that pay.*

*If, however, the pay last drawn by the Government servant in a temporary post has been inflated by the grant of premature increments, the pay which he would have drawn but for the grant of those increments shall, unless otherwise ordered by the authority competent to create the new post, be taken for the purposes of the proviso to be, the pay which he last drew in the temporary post."*

4.As per the above Fundamental Rules, the pay was fixed in favour of the writ petitioner on his promotion to the post of High School Headmaster and he was continuously receiving the revised scale of pay from the year 2000 till his retirement in the year 2005. The petitioner has not questioned the revision of scale of pay. All of a sudden, after a lapse of four years from the date of his retirement, the writ petition is filed, seeking a direction to



fix the pay as per Fundamental Rules 22B. In fact, proviso 9(iii) of the Fundamental Rules 22(B), states that if a Government servant has previously held substantively or officiated in the same post or a permanent or temporary post on the same time-scale, or a permanent post on an identical time-scale or a temporary post on an identical time-scale, such post being on the same time-scale as a permanent post then the initial pay shall not be less than the pay other than special pay, personal pay or emoluments classed as pay by the Government under Rule 9(21)(a)(iii). The writ petitioner has already drawn pay on the last such occasion and he shall count the period during which he drew that pay on such last occasion any previous occasions, for increment in the stage of the time scale equivalent to that pay.

5.As far as the writ petitioner is concerned, he was not allowed increase in pay on promotion to the post of Headmaster on 20.06.2002, but, the period during which, he drew the same pay was allowed to count for increment and the increment allowed on 01.10.2002 by increasing his pay from Rs.11,300/- to Rs.11575/-. This apart, the personal pay of Rs.500/- attached to the post of Headmaster was also allowed from the date of promotion.

6.The second respondent also had reiterated the Rules position and issued a letter dated 28.08.2004 that the scale of pay of P.G.Assistant and the Headmaster being identical transfer from P.G.Assistant to Headmaster would not warrant any fixation.

7.First of all, the pay was fixed in accordance with the Rules 22(B) of Fundamental Rules and the said position is clarified in the counter which cannot be disputed. Further, the writ petitioner was promoted in the year 2002 and he was allowed to retire in the year 2005 and the writ petition is filed in the year 2009 seeking fixation of pay with reference to his promotion of the year 2002. This being the factum, the writ petitioner fails on two counts, first of all on laches and even on merits, the petitioner has not made out any grounds to grant the relief as such sought for.

8.Thus, the writ petition is devoid of merits and the same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS )



To

1.The Director of School Education,  
Chennai-16.

2.The District Educational Officer,  
Virudhunagar.

+1 CC to M/s.GP ( SR-19295[F] dated 07/10/2020 )

+1 CC to M/s.R. SUBRAMANIAN, Advocate (SR-19252[F] dated 07/10/2020)

**W.P. (MD)No.9705 of 2009**  
**and**  
**M.P (MD) .No.1 of 2013**  
**05.10.2020**

SMV CO  
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