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IN THE HIGH COURT OF JUDICATURE AT MADRAS

D A T E D : 25.10.2021

C O R A M

The Hon'ble Mr. Justice C.SARAVANAN

Writ Petition Nos.2691, 2693, 2696 & 2698 of 2019

(Through Video Conferencing)

W.P.No.2691 of 2019

S.Virudachalam

Vs.

...Petitioner

1. The Block Educational Officer,
Kalasappakkam,
Thiruvannamalai District - 606 751.

2. The District Educational Officer,
Polur,
Thiruvannamalai District.

3. The Director of Elementary Education,
Chennai - 600 006.

...Respondents

W.P.No.2693 of 2019

A.Tamilselvi

vs.

...Petitioner

1. The Block Educational Officer,
Harur,
Dharmapuri district.

2. The District Educational Officer,
Harur,
Dharmapuri District.

3. The Director of Elementary Education,
Chennai - 600 006.

...Respondents

W.P.No.2696 of 2019

A.Chella Perumal

Vs.

...Petitioner



1. The Block Educational Officer,
Kalasappakkam,
Thiruvannamalai District - 606 751.

2. The District Educational Officer,
Polur,
Thiruvannamalai District.

3. The Director of Elementary Education,
Chennai - 600 006.

...Respondents

W.P.No.2698 of 2019

R.Alagesan

...Petitioner

vs.

1. The Block Educational Officer,
Kalasappakkam,
Thiruvannamalai District - 606 751.

2. The District Educational Officer,
Polur,
Thiruvannamalai District.

3. The Director of Elementary Education,
Chennai - 600 006.

...Respondents

PRAYER IN W.P.No.2691 Of 2019 : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent issued in A.Thi.Mu.No.1463/A1 Dated 03.10.2018 and quash the same and consequently direct the Respondents to step up the pay of the Petitioner on par with his junior Thiru Saminathan w.e.f 29.12.2011 in the light of the order of the Madurai Bench of Madras High Court in WP(MD) No.742 of 2018 dated 07.02.2018 within a stipulated period of time as prescribed by this Court.

PRAYER IN W.P.No.2693 Of 2019: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent issued in A.Thi.Mu.No.721/2018/A5 Dated 05.09.2018 and quash the same and consequently direct the Respondents to step up the pay of the Petitioner on par with her junior Tmt.Maragatham, w.e.f 01.07.2007 in the light of the order of the Madurai Bench of Madras High Court in WP(MD) No.742 of 2018 dated 07.02.2018 within a stipulated period of time as prescribed by this Court.



PRAYER IN W.P.No.2696 Of 2019: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent issued in A.Thi.Mu.No.1467/A1/2018 Dated 03.10.2018 and quash the same and consequently direct the Respondents to step up the pay of the Petitioner on par with his junior Thiru Saminathan w.e.f 29.12.2011 within a stipulated period of time as prescribed by this Court.

PRAYER IN W.P.No.2698 Of 2019: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent issued in A.Thi.Mu.No.1573/A2 Dated 09.10.2018 and quash the same and consequently direct the Respondents to step up the pay of the Petitioner on par with his junior Thiru Saminathan w.e.f 29.12.2011 within a stipulated period of time as prescribed by this Court.

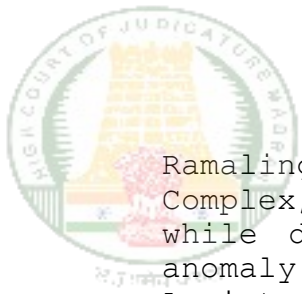
For Petitioners : Mrs.Dakshayani Reddy

For Respondents : Mr.L.S.M. Hasan Fizal
Government Advocate

C O M M O N O R D E R

In these writ petitions, the Petitioners are asking for step up the pay. The Petitioners have challenged the impugned proceedings of the first Respondent wherein the first Respondent stated that the Petitioners are not entitled for higher pay as they have come from different union. In all these cases, the Petitioners were appointed as Secondary Grade Teacher much earlier to their junior though in different union and were also transferred to their present union at Kalasappakkam as Secondary Grade Teacher before their junior was appointed in the Kalasappakkam union as Secondary Grade Teacher. Since the Respondents have not given them step up pay which was granted to their junior, these petitioners had sent a representations to the second Respondent which has culminated in the impugned order of the first Respondent dated 03.10.2018 in W.P.No.2691 of 2019 and W.P.No.2696 of 2019 and order dated 05.09.2019 in W.P.No.2693 of 2019 and order dated 09.10.2018 in W.P.No.2698 of 2019.

2. Appearing on behalf of the Petitioners, the learned counsel appearing for the Petitioners submits that the issue was no longer res integra and is covered by the decision of this Court. In this connection, a reference was made to an order passed in W.P.No.15299 of 2017 dated 13.07.2021 in the case of



Ramalingam vs. The Director of Elementary Education, DPI Complex, College Road, Nungambakkam, Chennai and others wherein while dealing with an identical issue as to whether the pay anomaly can be rectified between the junior and senior BT Assistant. Under a similar circumstances, after referring to an order passed in W.P.(MD)No.24551 of 2018 dated 19.02.2019 and the decision of this Court in W.P.No.34455 of 2019, the above writ petition was allowed. The learned counsel for the Petitioner further submits that the order passed in W.P.No.34455 of 2019 was also appealed before the Division Bench of this Court in W.A.No.178 of 2021 by the Respondents. It is submitted that the writ appeal was dismissed by the Division Bench of this Court. The learned counsel for the Petitioner has also placed reliance on the order dated 30.04.2021 in W.P.No.10925 of 2021 in P.Navanithi vs. The Secretary to Government, School Education Department, Fort St. George, Chennai - 600 009 and others.

3. The learned counsel for the Respondents submitted that the writ petitions are liable to be dismissed and reiterates the submissions in the counter filed in the respective writ petitions. It is submitted that there is no provision to step up the pay of the Petitioners on par with the junior Mr.Saminathan since the Petitioners came to Kalasappakkam Union Establishment from other Unit of Establishment whereas Mr.Saminathan hails from the same Kalasappakkam Union and therefore the request of the Petitioners has been correctly rejected in the impugned order. The Respondents have also sought for dismissal of the writ petition in W.P.(MD)No.742 of 2018, the following issues were not considered by the Court.

''(i) The Senior and Junior has to be decided in respect of the Unit of Establishment concerned as per the amended provisions of Tamil Nadu Educational Subordinate Service Rules.

(ii) The post held by the Senior and Junior Employee at various stages and the date of promotion, date of incentive increment, date of Selection Grade and Special Grade in the post has not been considered.

(iii) The condition imposed in G.O.Ms.No.25 P & AR Department dated 23.03.2015 has not been examined.

It is submitted that the decision made in the above case has no common applicability since the merits of each case has to be examined in detail, and unless and until the Government issues orders



for implementation of such decision in respect of similarly placed employees.'

4. It is further submitted that the question of senior and junior has to be decided only for each and every Unit of Establishment and it cannot be decided on the basis of seniority of employees working at District level or State level. Since the Unit of Establishment in respect of Teachers working in Elementary Education is the Panchayat Union concerned for all purpose, such as promotion, seniority, transfer etc. The reasons of the Petitioners has been rightly rejected.

5. Heard the learned counsel appearing for the Petitioners and the Learned Government Advocate appearing for the Respondents and perused the impugned order and the decisions cited by the learned counsel for the Petitioners.

6. This issue has been answered by the decisions of this Court which have been referred to supra cited by the learned counsel for the Petitioners in W.P.No.15299 of 2017. This Court also considered the Government instructions dated 11.08.2016 and G.O.Ms.No.25 P & AR Department dated 23.03.2015. This Court has elaborately considered the issue in the light of the previous order passed by the Division Bench of this Court in W.P.(MD) No.24551 of 2018 by its order dated 19.02.2019 and the order in W.P.No.34455 of 2019 in the case of P.Navanithi vs. The Secretary to Government, School Education Department, Fort St. George, Chennai - 600 009 and others in W.P.No.10925 of 2021 vide order dated 30.04.2021. After referring to the above decisions, this Court in W.P.No.15299 of 2017 by its order dated 13.07.2021 held as under:-

'5. In the result, the proceedings of the third Respondent in A.Thi.Mu.No.1410/2015/A2 dated 29.06.2016 is quashed and consequently the Respondents are directed to rectify the pay anomaly of the Petitioner by stepping up his pay on par with his junior, which exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.'

7. Since the issue is covered in favour of the Petitioners in terms of the above decisions of this Court and in view of the fact that the appeal in W.A.No.178 of 2021 filed against the order in W.P.No.34455 of 2019 was also dismissed by the Division Bench of this Court vide order dated 18.03.2021, these writ Petitions are deserves to be allowed.

8. In the result, these writ Petitions are allowed. The respondents are directed to implement this order with



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consequential benefits to the Petitioner within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS III)

/True Copy//

Sub Assistant Registrar

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To

1. The Block Educational Officer,
Kalasappakkam,
Thiruvannamalai District - 606 751.
2. The District Educational Officer,
Polur, Thiruvannamalai District.
3. The Director of Elementary Education,
Chennai - 600 006.
4. The Block Educational Officer,
Harur, Dharmapuri district.
5. The District Educational Officer,
Harur, Dharmapuri District.

+3ccs to Mrs.Dakshayani Reddy, Advocate,
S.R.No.54965, 54966, 54964 (17/11/2021)

W.P.Nos.2691, 2693, 2696
& 2698 of 2019

SR[co]
NSK 16/11/2021