

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2593 of 2021

R.M.Uthirakumaran

.. Petitioner

Vs.

1.State of Tamil Nadu

Rep. by its Secretary to Government
School Education Department
Secretariat, Chennai - 600 009

2.The Directorate of School Education
College Road, Nungambakkam
Chennai - 600 006

3.The Director of Elementary Education
Chennai - 600 006

4.The Chief Educational Officer
Thiruvallur, Thiruvallur District

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to fix the scale of pay of the petitioner from the last pay drawn in Middle School of Head Master Post, sanctioning the annual increment and other benefits by considering his representation dated 24.07.2015.

For Petitioner : Mr.C.Selvaraj
C.S.Associates

For R1 and R2 : Mr.P.Raja
Government Advocate

O R D E R

This writ petition has been filed for a direction to the respondents to fix the scale of pay of the petitioner from the last pay drawn in Middle School Head Master Post, sanctioning the annual increment and other benefits by considering his representation dated 24.07.2015.

2. The case of the petitioner is that he joined service as Secondary Grade Teacher in T.P.M. Aided Middle School at Poonamallee, Thiruvallur District on 01.01.1969. He was

promoted as Head Master of Middle School on 29.09.1991. Subsequently, certain disciplinary proceedings were initiated against him and that he was suspended from service on 22.02.1992. As against the order of suspension, the petitioner approached this Hon'ble Court by way of a writ petition and obtained an interim order and he continued his service accordingly. However, charges were framed against the petitioner and he was dismissed from the service on 01.04.1992. However, the order of dismissal was not approved by the authority concerned.

3. At the time of his dismissal, his scale of pay was Rs.1,940/-. Since the order of dismissal was not approved by the authorities concerned, the Department directed the management to absorb the petitioner. However, since the management was very adamant, the Government appointed the petitioner as Tamil Pandit in Thiruvallur Middle School at Nambi Nagar, Poonamallee, as fresh appointment in the basic scale of pay permissible to the post of Tamil Pandit at Rs.1,400/- and he joined duty therein on 19.10.1994. The petitioner reached superannuation and retired from service on 30.06.2005. While so, the Government has passed a Government Order in G.O.(3D) No.179, School Education (B2) Department dated 10.11.2010, fixing the pension of the petitioner without considering the period of his non-employment i.e. from 01.04.1992 to 18.10.1994. While fixing the pension, the Government has directed to count the service rendered by him in other School also, but, they have not considered the pension properly, because, they treated the petitioner as a fresh candidate as on 18.10.1994 and fixed the scale of pay of Rs.1,400/-. Hence the petitioner has made a representation to the Government dated 24.07.2015, pointing out as to how the pay has to be fixed after his reinstatement into service. Since there was no response, the petitioner sent a reminder to the respondents, for which also, there was no response. Hence this writ petition.

4. Heard both sides and perused the materials placed before this Court in the form of typed set of papers.

5. Considering the limited scope of the prayer and the facts and circumstances of the case, this Court, without expressing any opinion on the merits of the case, directs the first respondent to consider the representation of the petitioner submitted on 24.07.2015, by giving an opportunity of hearing to him, and pass appropriate order on merit, within a period of 90 days from the date of receipt of a copy of this order.

6. The petitioner shall furnish his phone number, email ID, if any, etc., along with a copy of his representation dated 24.07.2015 and this order, to the first respondent forthwith. The first respondent is directed to communicate the decision taken on the representation, to the petitioner within

a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authority concerned fail to send communication to the petitioner, he/she will have to face the civil imprisonment in case of contempt proceedings and, if he/she is unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of attempt of delivery, so that the petitioner, at a later point of time, will not take a plea that he is not aware of the order.

7. With the above directions, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Asr

To

1.State of Tamil Nadu
Rep. by its Secretary to Government
School Education Department
Secretariat, Chennai - 600 009

2.The Directorate of School Education
College Road, Nungambakkam
Chennai - 600 006

3.The Director of Elementary Education
Chennai - 600 006

4.The Chief Educational Officer
Thiruvallur, Thiruvallur District

+1cc to Mr.C.S.Associates, Advocate, S.R.No. 7029
+1cc to the Government Pleader, S.R.No. 7068

W.P.No.2593 of 2021

PL(CO)
GN(17/03/2021)