



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2021

CORAM

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE A.A. NAKKIRAN

W.A.No.855 of 2021
&
C.M.P.No.4940 of 2021

- 1.The Chief Educational Officer,
Krishnagiri District - 632 001.
- 2.The District Educational Officer,
Denkanikota - 635 107
Krishnagiri District.
- 3.The Block Educational Officer,
Thally - 635 118,
Krishnagiri District. ...Appellants / Respondents 1 to 3

Vs.

- 1.N.Lakshmipathy ...1st Respondent / Petitioner
- 2.M.Manju ...2nd Respondents / 4th Respondent

Prayer : Writ Appeal as against the order dated 21.02.2020 passed in W.P.No.1348 of 2020.

Prayer in W.P.No.1348 of 2020 : Petition presented under Article 226 of Constitution of India to issue a Writ of Certiorarified Mandamus or any other appropriate writ or order or direction in the nature of writ calling for the records pertaining to the impugned proceedings Aa.Thi.Mu./1502/2019/Aa dated 25.09.2019 passed by the 3rd Respondent herein and quash the same as illegal and consequently direct the respondents 1 to 3 herein to re-fix the petitioners salary as on 17.12.2012 on the basis of the petitioners representation dated 16.09.2019

For Appellants :: Mr.K.Tippu Sultan
Govt. Advocate

For Respondent :: Mr.V.S. Jagadeesan for
Mr.R. Ramesh for R1



J U D G M E N T

(Judgment of the Court was delivered by S. VAIDYANATHAN, J.)

Questioning the order dated 21.02.2020 passed in W.P. No. 1348 of 2020, the instant writ appeal has been filed.

2. Citing pay anomaly and seeking stepping up of pay on par with his junior, the 1st respondent herein had filed the writ petition challenging the order dated 25.09.2019 passed by the Block Educational Officer, Thally, rejecting his request for stepping up of pay on par with the 2nd respondent herein. The learned Single Judge, finding that the 1st respondent/writ petitioner is senior to the 2nd respondent herein even within the same Union and that the 2nd respondent is receiving a higher pay than the 1st respondent herein, allowed the writ petition following the judgment dated 06.01.2020 of this Court passed in W.P. No. 34450 of 2019 involving a similar issue, with a direction to the Block Educational Officer, Thally, to refix the pay of the 1st respondent herein by stepping it up on par with the pay of the 2nd respondent herein by passing appropriate orders and observed that the 1st respondent/writ petitioner would be entitled to arrears of pay consequent to stepping up of his pay. Assailing the said order, the present writ appeal has been filed.

3. According to the appellants, the learned Single Judge ought not to have quashed the proceedings dated 25.09.2019 acceding to the request of the 1st respondent/writ petitioner to step up his pay on par with Manju/2nd respondent herein. The appellants, relying on various Government Orders in G.O.Ms. No. 15 Personnel and Administrative Reforms Department dated 20.02.1982, G.O.Ms. No. 1400, Finance (PC) Department dated 21.12.1978, G.O.Ms. No. 859, Finance (PC) Department dated 11.09.1986 and G.O.Ms. No. 25 Personnel and Administrative Reforms (FR IV) Department dated 23.03.2015 would submit that since the initial appointment of the 1st respondent and the 2nd respondent were in different units, stepping up of pay of the 1st respondent on par with the 2nd respondent is not possible and the rejection of the request of the 1st respondent by the Block Educational Officer, Thally, based on the aforesaid Government Orders, is sustainable. According to the appellants, the 1st respondent had been granted two incentive increments in the year 2012 itself while the 2nd respondent had been granted her 2nd incentive increment on 06.01.2016, on acquiring M.Sc qualification, pursuant to which she has been drawing more pay and it cannot be construed as pay anomaly. Hence, the appellants would submit that the order of the learned Single Judge is liable to be interfered with.



4. Admittedly, the 1st respondent N. Lakshmipathy was appointed as Secondary Grade Assistant on 17.12.2012 in P.U.M. School, Doddabilimudrai, Thally Block while the 2nd respondent Manju was appointed as a Secondary Grade Assistant on 20.12.2012 in Hosur Block, after the date of appointment of the 1st respondent. Subsequently, she sought transfer to Thally Block and was placed at the bottom of the seniority list. The 1st respondent's probation was declared on 16.12.2014 and he was granted two incentive increments in 2012 itself, as he had acquired B.Ed and M.Sc qualification prior to his appointment. The 1st respondent got promoted as B.T. Assistant on 17.08.2015 and has been getting periodical increments in the existing cadre. As far as the 2nd respondent is concerned, her probation was declared on 19.12.2014 and she was also granted 1st incentive increment for B.Ed qualification. She got promoted as B.T. Assistant on 17.08.2015 and on acquiring M.Sc qualification, she was granted 2nd incentive increment on 06.01.2016. However, it was found that as on 01.07.2019, the said Manju was drawing more pay than the 1st respondent, though he was senior to her.

5. When this Court posed a question as to whether the 1st respondent and the 2nd respondent were drawing the same scale of pay when the 2nd respondent got transferred to Thally Block, the answer was in the affirmative. It is also not in dispute that both the 1st respondent and the 2nd respondent were equally qualified and both of them have been granted two increments for acquiring higher qualification. That being the case, there cannot be any difference in pay and there shall be pay parity. The learned Single Judge, taking note of the earlier order passed by this Court in W.P. No. 34450 of 2019 dated 06.01.2020 quashed the impugned proceedings and gave a direction to the appellants to refix the pay of the 1st respondent by stepping up his pay on par with the pay of Manju and pass appropriate orders within a period of four weeks from the date of receipt of a copy of the order. We find that there is no reason to interfere with the order passed by the learned Single Judge and the writ appeal is dismissed. As the time limit fixed by the learned Single Judge has expired, two months' time is granted from the date of receipt of a copy of this order to comply with the order passed by this Court in the writ petition. No costs. Connected C.M.P. is closed.

Sd/-

Assistant Registrar (CS-II)

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Sub-Assistant Registrar

nv

1. The Chief Educational Officer,
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Krishnagiri District.

3.The Block Educational Officer,
Thally - 635 118,
Krishnagiri District.

+1cc to Mr.R.Ramesh, Advocate SR.No.50729

+1cc to the Government Pleader SR.No.51267

W.A.No.855 of 2021

NK(CO)
RVM(29/11/2021)