

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2021

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5591 of 2021

S.Punitha

...Petitioner

-vs-

- 1.The Secretary to Government,
Education Department,
Chennai.
- 2.The Director of Elementary Education,
Chennai.
- 3.The District Educational Officer,
Udumalpet,
Tiruppur District.
- 4.The Block Educational Officer II,
Udumalpet,
Tiruppur District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 4th respondent in his proceedings in O.Mu.No.2612/A4/2020 dated 17.12.2020 and quash the same and direct the respondents to sanction the personal pay of Rs.750/- to the petitioner notionally with effect from 01.01.2006 and monetary benefits with effect from 01.01.2011 as per G.O.Ms.No.23 Finance (Pay Cell) Department dated 12.01.2011.

For Petitioner : Mr.V.Pannerselvam

For Respondents : Mr.P.Raja
Government Advocate

O R D E R

The petitioner has come forward with the above writ petition challenging the order passed by the 4th respondent in O.Mu.No.2612/A4/2020 dated 17.12.2020 and for a consequential direction to the respondents to sanction the personal pay of Rs.750/- to the petitioner notionally with effect from

01.01.2006 and monetary benefits with effect from 01.01.2011 as per G.O.Ms.No.23 Finance (Pay Cell) Department dated 12.01.2011.

2. When the matter is taken up for hearing, it is represented by the learned counsel appearing for the petitioner that the issue is covered by the decision of this Court in W.P. (MD).No.19240 of 2014 dated 02.01.2018, which has been subsequently followed by this Court in W.P(MD).No.16800 of 2015 dated 11.02.2020. The said statement has not been refuted by Mr.P.Raja, learned Government Advocate appearing for the respondents. The relevant portion of the order in W.P(MD) No.19240 of 2014 dated 02.01.2018 is extracted below:

"4. I went through the contents of the counter filed by the third respondent. Following the implementation of the sixth pay commission's recommendations, there arose certain pay anomalies. The Government of Tamil Nadu constituted a One Man Commission vide G.O.Ms.No.444, Finance (PC) Department dated 09.09.2009. The Secondary Grade Teachers had been agitating that they had been dealt with unfairly. Therefore, the said One Man Commission made a recommendation for grant of Special Allowance of Rs.500/- per month to them. The said recommendation was accepted by the Government and the Government issued G.O.Ms.No.270, Finance (Pay Cell) Department dated 26.08.2010. Still, the Secondary Grade Teachers were not satisfied. Therefore, this amount was enhanced to Rs.750/-.

5. It was made clear that both the Government Orders shall take notional effect from 01.01.2006 and monetary effect from 01.08.2010 and 01.01.2011 respectively. It is seen that the writ petitioner herein was promoted from the post of Secondary Grade Teacher to the post of B.T.Assistant on 02.06.2010 itself. In other words, he ceased to be a Secondary Grade Teacher from the said date. He was working as a B.T Assistant when G.O.Ms.No.270, dated 26.08.2010 was issued.

6. In the counter affidavit, it has been conceded that the writ petitioner was given Special Allowance of Rs.500/- on notional basis till the date of his promotion as B.T.Assistant. In other words, the writ petitioner was given the benefit of G.O.Ms.No.270, dated 26.08.2010. In the counter affidavit, a stand is taken to the effect that the writ petitioner is not entitled to claim benefit in terms of G.O.Ms.No.23, dated 12.01.2011, since she

was not a Secondary Grade Teacher by then. This is clearly self contradictory. G.O.Ms.Nos.270 dated 26.08.2010 and G.O.Ms.No.23, dated 12.01.2011 cannot be separated from one another.

7. Vide G.O.Ms.No.270, dated 26.08.2010, a sum of Rs.500/- has been granted as Special Allowance. In G.O.Ms.No.23, dated 12.01.2011, the said sum of Rs.500/- was enhanced to Rs.750/- and the department thought it fit to apply G.O.Ms.No.270 dated 26.08.2010 in favour of the writ petitioner. It cannot therefore be heard to say that it will not apply G.O.Ms.No.23, dated 12.01.2011.

8. In this view of the matter, I have no hesitation to hold that the writ petitioner is entitled to Personal Pay of Rs.750/- on notional basis with effect from 01.01.2006 till 02.06.2010, when he was promoted as B.T.Assistant. The question of granting monetary benefit in terms of the said Government Orders will not arise because, she was no longer a Secondary Grade Teacher by then. The respondents 3 and 4 are directed to include the sum of Rs.750/- in the pay of the writ petitioner as Secondary Grade Teacher with notional effect from 01.01.2006 till 02.06.2010 when he was promoted as B.T.Assistant."

3. Finding that the present issue on hand is squarely covered by the judgment of this Court dated 02.01.2018 and 11.02.2020, this writ petition is allowed and the impugned order passed by the 4th respondent in his proceedings in O.Mu.No.2612/A4/2020 dated 17.12.2020 is quashed and the respondents are directed to give the benefit of personal pay to the petitioner at Rs.750/- notionally with effect from 01.01.2006 as per G.O.Ms.No.23, Finance (Pay Cell) Department dated 12.01.2011 till the date of promotion and thereafter the same is directed to be merged with the basic pay while fixing the pay in the promoted post and such an exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

s/d-
Assistant Registrar

True Copy

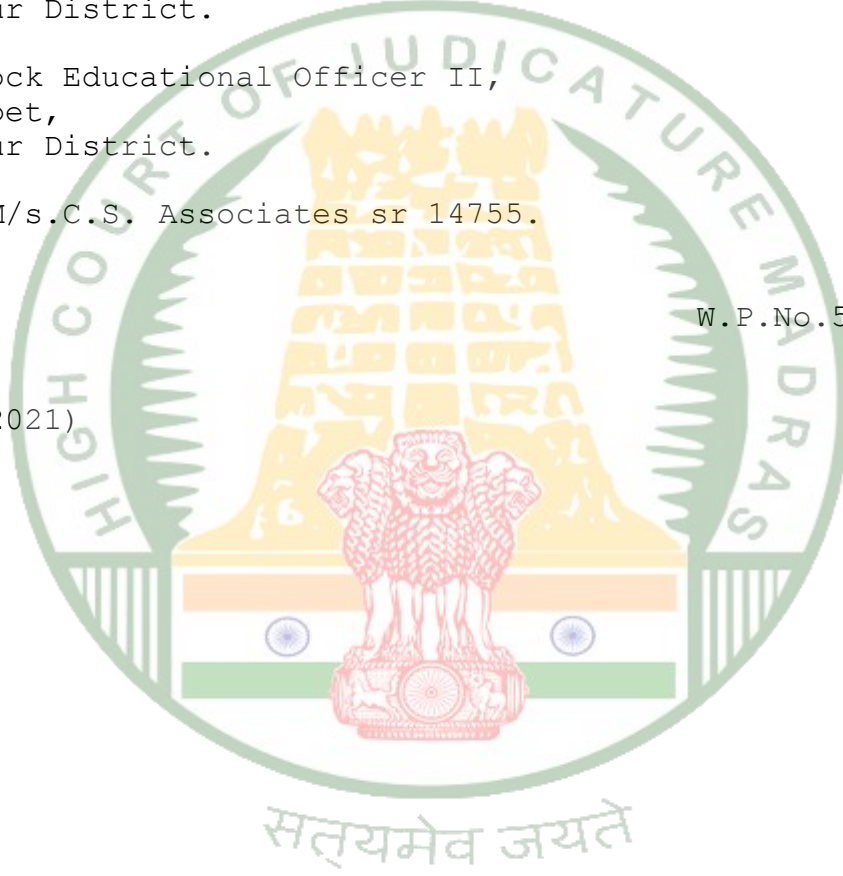
Sub-Assistant Registrar

To:

1. The Secretary to Government,
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 2. The Director of Elementary Education,
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 3. The District Educational Officer,
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 4. The Block Educational Officer II,
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- +1 CC to M/s.C.S. Associates sr 14755.

W.P.No.5591 of 2021

GSM(CO)
SP(05/07/2021)



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