



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2021

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.10925 of 2021
and
W.M.P.No.11560 of 2021

P.Navanithi .. Petitioner

Vs.

1.The Government of Tamil Nadu
represented by Secretary to the Government,
School Education Department,
Fort St.George,
Chennai - 600 009.

2.The Director of Elementary Education,
College Road, Chennai - 600 006.

3.The District Educational Officer,
Coimbatore District, Coimbatore.

4.The Chief Educational Officer,
Coimbatore District, Coimbatore.

5.The Block Educational Officer,
Periyanaickenpalayam Panchayat Union,
Coimbatore District.

.. Respondents

Prayer: Writ petition filed under Article 226 of Constitution of India praying to issue a writ of Certiorarified mandamus, calling for the records of the respondents in relation to the proceedings issued in Na.Ka.No.16907/E1/2016, dated 11.08.2016 and in OM No. 2225/A3/2019, dated 18.06.2019, by the respondent Nos. 2 and 3 respectively and quash the same and issue a consequential direction to the respondents to step up the pay of petitioner to the level of his junior K.Ravimurugan and fix her pay at Rs.73,700 as on 01.07.2018 in the place of Rs.69,500 in the pay matrix and grant arrears of pay and then fix last drawn pay of petitioner and grant arrears of pensionary benefits.

For Petitioner : Mr.R.Saseetharan

O R D E R

The grievance of the petitioner is that she is the senior in the post of Head Mistress in Panchayat Union and she has taken voluntary retirement from service. One Mr.K.Ravi Murugan, who was the junior to the petitioner, was given



promotion with effect from 18.06.2018 and while fixing the pay scale, he was given higher pay scale than the petitioner. Therefore, the petitioner has made a representation to the respondent to step up her pay on par with her junior. But however, by the impugned order in OM No.2225 / A3 / 2019 dated 18.06.2019, the request of the petitioner was rejected on the ground that each panchayat union is a separate unit and there cannot be any comparison of seniority.

2. Heard both sides.

3. According to the learned counsel for the petitioner, the issue is no more res-integra and it was decided in W.P. (MD) No.742 of 2018, dated 07.02.2018, wherein, this Court has observed as under:

"4.The learned counsel appearing for the petitioner drew the attention of this Court to the proceedings dated 25.05.2017, issued by the District Elementary Educational Officer, Tuticorin, whereby, a similar pay anomaly in the case of one Mrs.Rani was set right. The petitioner's case is identical. However, the first respondent declined to accept the request of the petitioner.

5.The first respondent has proceeded on the footing that since the petitioner got transferred from Pudukottai to Kayathar Union, it is not possible to set right the pay anomaly. The reason assigned by the first respondent in the impugned order is unsustainable in law. Even though the writ petitioner came to Kayathar Union by way of transfer and has to be placed at the bottom of the seniority list, the fact remains that the Shanthi got appointment as Secondary Grade Teacher at Kayatharu Union only later in point of time. Therefore, by no stretch of imagination the said Shanthi could have stolen a march over the petitioner. The order impugned in this writ petition is quashed. The respondents are directed to set right the pay anomaly and step-up the pay of the petitioner on par with said Shanthi. Such an order shall be issued by the respondents within a period of eight weeks."

4. The learned Government Advocate appearing for the respondents would submit that each Panchayat Union is a separate Unit and admittedly the petitioner is a senior, but the petitioner was appointed under different Panchayat Union and was transferred to the other Panchayat Union. Therefore, the request of petitioner was rejected.



5. Admittedly, each Panchayat Union is a separate unit, but a common Seniority list was maintained for all the teachers. It is an admitted fact that the petitioner is a senior and one Mr.K.Ravi Murugan is junior to the petitioner and he was granted higher pay than the petitioner. Whenever a junior is given higher pay scale than the senior, the anomaly shall be set right by stepping up the pay scale of the senior. This Court in W.P.(MD) No.742 of 2018 dated 07.02.2018 is clearly held that the seniority cannot be altered and the junior cannot get more pay than the senior and hence the pay scale of the senior should be stepped up. Since we note that the petitioner being a senior is entitled to higher pay on par with the junior, we consider that the petitioner is entitled to the relief prayed for.

6. Accordingly, the respondents are directed to consider the stepping up of pay scale of the petitioner on par with her junior and pass orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

7. The writ petition is ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Pns

To

- 1.The Secretary to the Government,
Government of Tamil Nadu School Education Department,
Fort St.George, Chennai - 600 009.
- 2.The Director of Elementary Education,
College Road, Chennai - 600 006.
- 3.The District Educational Officer,
Coimbatore District, Coimbatore.
- 4.The Chief Educational Officer,
Coimbatore District, Coimbatore.
- 5.The Block Educational Officer,
Periyanaickenpalayam Panchayat Union,
Coimbatore District.

+1cc to Mr.R.Saseetharan, Advocate SR.No. 26495

+1 cc to Government Pleader Sr.No. 27020

W.P.No.10925 of 2021

and

W.M.P.No.11560 of 2021

PMK (CO)

<https://hcservices.ecourts.gov.in/hcservices/>
B.VC(26.07.2021)