

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.21528 & 21529 of 2014

A.S.Viola Caroline Mary ... Petitioner in W.P.No.
21528 of 2014

V.Krishnappa ... Petitioner in W.P.No.
21529 of 2014

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary to Government,
School Education Department,
Secretariat, Fort St. George, Chennai - 600 009.
2. The Director of School Education,
DPI Campus, College Road, Chennai - 600 006.
3. The Director of Elementary Education,
DPI Campus, College Road, Chennai - 600 006.
4. The Chief Educational Officer,
Krishnagiri District, Krishnagiri.
5. The District Elementary Educational Officer,
Krishnagiri District, Krishnagiri. .. Respondents in both
Wps

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct respondents to consider the representation submitted by the petitioners on 07.04.2014 and 11.04.2014 and revert the petitioners to Elementary Educational Service from the post of Middle School Headmaster with consequential stepping up of pay to the stage equal to the pay applicable to the post of Selection Grade Primary School Headmaster as per the Government Orders with consequential benefits including payment of arrears of salary and other benefits with interest within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran - in both WPs

For Respondents : Mr.A.Rajaperumal
AGP in both WPs

COMMON ORDER

The prayer made in these writ petitions is to issue a writ of Mandamus, directing the respondents to consider the representations submitted by the petitioners on 07.04.2014 and 11.04.2014 and revert the petitioners to Elementary Educational Service from the post of Middle School Headmaster to Selection Grade Primary School Headmaster with consequential stepping up of pay and other benefits, including interest, within a time frame to be stipulated by this Court.

2. According to the petitioners, they were appointed as Secondary Grade Teachers through Employment Exchange in the Elementary Education Service and were granted Selection Grade on completion of 10 years of service. Subsequently, they were promoted as Primary School Headmasters. Thereafter the petitioners were promoted as Middle School Headmasters and on upgradation of schools, in which they were working, they were absorbed as BT Assistants in the upgraded High Schools. It is the further case of the petitioners that in the recommendations of the VI Pay Commission, there was serious discrepancy for the persons, who were absorbed from the Elementary Education Service to High School service, pursuant to which, the petitioners have been deprived of pay fixation applicable to the post of Selection Grade Primary School Headmaster i.e., Rs.15600-39100+GP 5400. Therefore, they made representations dated 07.04.2014 and 11.04.2014 to the respondents requesting to pay anomaly by reverting them to Elementary Educational Service with consequential pay revision. Finding no response on the same, they have come up with these writ petitions with the aforesaid prayer.

3. Upon notice, the respondents filed a detailed counter affidavit, wherein it is stated that the petitioners are not eligible for selection grade in Primary School Headmaster post, as they have not completed 10 years of service and hence, they could not be awarded selection grade in Primary school Headmaster post and their pay could not be fixed in Rs.15600-39100+GP.5400 applicable to Selection Grade Primary School Headmaster post; and that, only those who have been awarded selection grade prior to 1.1.2006 are eligible for fixation of pay in the said pay band and the petitioners were working as ordinary grade primary school Headmaster as on 1.1.2006 and therefore, they are not eligible for fixation of pay in the said pay band and arrears of pay with interest as claimed by them. It is further stated therein that the service benefits given in Rule 4(3) of Tamil Nadu Revised Scale of Pay Rules, 1989, have not been extended by the Government during the periods in which the Tamil Nadu Pre-revised scale of Pay Rules, 2009, and the Tamil Nadu Revised Scale of Pay Rules 2017 are in existence and

therefore, the pay of the petitioners could not be fixed applying Rule 4(3). It is also submitted that the petitioners could not be retransferred to Elementary Education Department now, as requested by them, since they were absorbed in Government High School only on their willingness given in writing; and if they are transferred so, they will have to lose service seniority in Elementary Education Department and they will be considered as Junior most among the other teachers in their post working in the Unit, to which they are getting transfer. With these averments, the respondents sought to dismiss these writ petitions.

4. The averments so made in the counter affidavit filed by the respondents have been seriously opposed by the learned counsel for the petitioners. Placing reliance on the documents filed in the typed set of papers, the learned counsel submitted that the case of the similarly placed persons was considered and favourable orders were issued by the respondent authorities. Hence, the representations of the petitioners may be directed to be considered by the respondent authorities, as done in the case of similarly placed persons.

5. On the other hand, the learned Additional Government Pleader appearing for the respondents fairly submitted that the respondent authorities would consider the representations of the petitioners and pass orders, on merits, within a time frame to be stipulated by this Court.

6. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court directs the respondent authorities to consider the representations of the petitioners dated 07.04.2014 and 11.04.2014 and pass appropriate orders, on merits and in accordance with law and also in the light of the orders passed in favour of similarly placed persons, within a period of six weeks from the date of receipt of a copy of this order.

7. Accordingly, these writ petitions stand disposed of. No costs.

Sd/-
Assistant Registrar (CS-IV)

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Sub Assistant Registrar

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To

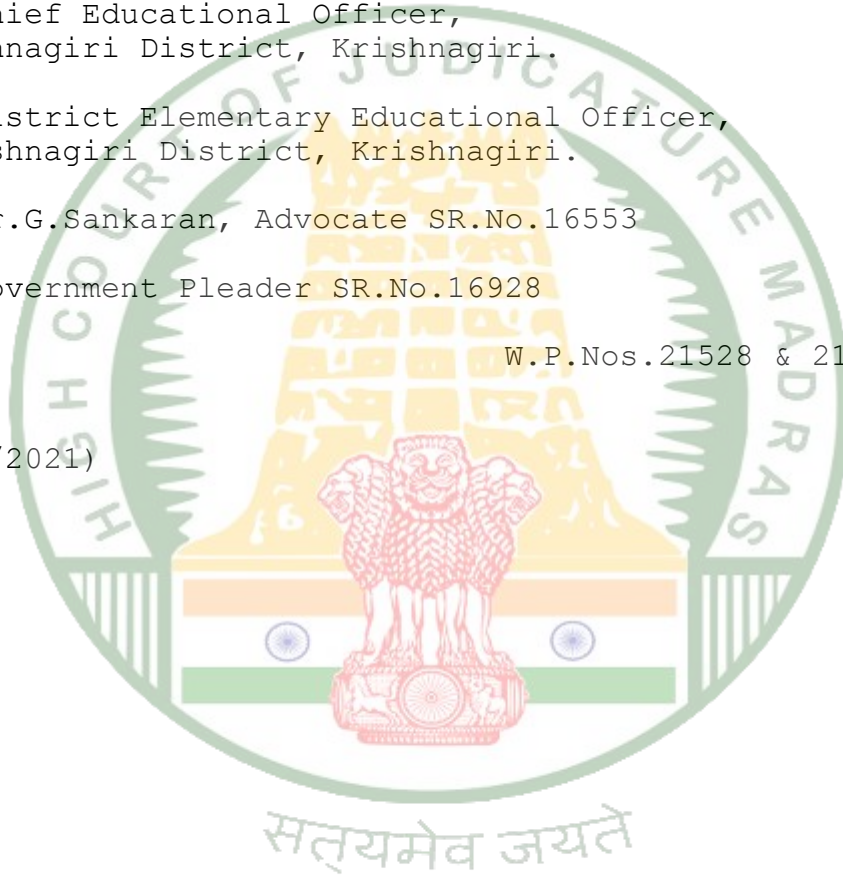
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+2cc to Mr.G.Sankaran, Advocate SR.No.16553

+1cc to Government Pleader SR.No.16928

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