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IN THE HIGH COURT OF JUDICATURE AT MADRAS

D A T E D : 20.10.2021

C O R A M

The Hon'ble Mr. Justice C.SARAVANAN

Writ Petition No.21886 of 2021
and
WMP.Nos.23089 and 23090 of 2021

(Through Video Conferencing)

P.Jayalakshmi

...Petitioner

Vs.

1. Director of Elementary Education,
DPI Campus,
Chennai - 600 009.

2. The District Educational Officer,
Thiruvannamalai District.

3. The Block Educationa Officer,
Chengam Block,
Thiruvannamalai District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the third Respondent in Na.Ka.No.366/A1/2021 dated 16.08.2021 and quash the same and consequently direct the Respondents to step up the pay of the Petitioner on par with her Junior T.Maheswari from the date when the anomaly arose as per the law laid down by this Court in W.P.Nos.34450 and 34455 of 2019 and W.A.Nos.78 and 178 of 2021.

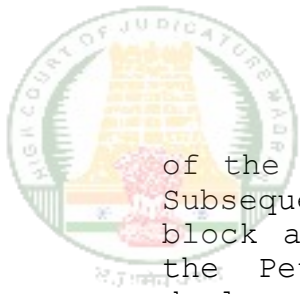
For Petitioner : Mrs.Dakshayani Reddy

For Respondents : Mr.L.S.M. Hasan Fizal
Government Advocate

O R D E R

Mr.L.S.M. Hasan Fizal, the learned Government Advocate, takes notice on behalf of the Respondents.

2. The case of the Petitioner is that the Petitioner was originally appointed as a Secondary Grade Teacher in the year 1991 at Panchayat Union Elementary School, Kaveripakkam Block



of the erstwhile Vellore District (Now Thiruvannamalai District). Subsequently, the Petitioner was transferred to the present block at Chengam with effect from 01.01.2004. The services of the Petitioner were regularized and her probation was also declared. Thereafter, the Petitioner was promoted to the post of Elementary School Headmaster with effect from 11.07.2005 and further promoted to the post of B.T. Assistant with effect from 27.11.2006. The Petitioner found that her Junior T. Maheswari was getting more pay than the Petitioner and there was a pay anomaly. It is submitted that as per Rule 22 of the Fundamental Rules pay of a senior has to be stepped up on par with the junior. The Petitioner therefore sent a representation to the second Respondent to step up her pay on par with her pay.

3. By virtue of the impugned order dated 16.08.2021, the second Respondent has rejected the request of the Petitioner on the ground that the seniority of the Petitioner is to be determined only with reference to the Division and since the Petitioner was moved from one Division to another Division, the Petitioner will be at the bottom in the new Division and therefore aggrieved by the said impugned order, the present writ petition has been filed.

4. Appearing on behalf of the Respondents, the learned counsel for the Respondents submits that the impugned order is well reasoned and requires no interference and therefore the present writ petition is liable to be dismissed.

5. I have considered the arguments of the learned counsel for the Petitioner and the learned Government Advocate appearing on behalf of the Respondents. The issue involved in this writ petition is now covered by an order of this Court in T.G. Rama vs. The Director of School Education and two others in W.P.Nos.34450 of 2019 vide order dated 06.01.2020 and in the case of S. Premavathi vs. Director of School Education and two others in W.P.No.34455 of 2019 vide order dated 06.01.2020. The Division Bench of this Court in W.A.No.78 of 2021 vide order dated 09.04.2021 and First Bench of this Court in W.A.No.178 of 2021 18.03.2021 have affirmed the view of the learned Single Judge in these two writ petitions. In W.A.No.78 of 2021, the Hon'ble Division Bench observed as under:-

'10. A perusal of the impugned order passed by the second appellant dated 09.10.2018, which was the subject matter of challenge in W.P.No.34450 of 2019, would disclose that the second appellant herein proceeded on the footing that there are no Rules available to step up the pay for getting the fact that Rule 22-B of the Fundamental Rules is



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available. The facts of the case would also disclose that admittedly, the said Ms.P.Rajeswari is junior to the Respondent herein and she is getting more pay. The learned Single Judge had taken note of the rule position in the facts and circumstances of the case and the order dated 19.02.2019 in W.P.No.(MD).24551 of 2018, which has been followed in the order dated 25.04.2019 in W.P.(MD).No.6358 of 2019 and has rightly reached the conclusion to confer the benefits upon the Respondents herein on par with her junior - the said Ms.P.Rajeswari.

11. In the considered view of this Court, the reasons assigned in the impugned order are perfectly justifiable and there is no error or infirmity apparent on the fact of the records. This Court finds no merits in the writ appeal.''

6. In W.A.No.178 of 2021, the Hon'ble First Bench followed this case with the following observation:-

''4. By the order of November 14,2019, the Madurai Bench held that the writ petitioner had to be set out over her juniors and refused to interfere with the order impugned in that case. In view of such finding, the order dated January 06,2000, which is inconsonance with the order affirmed in the appeal by the Madurai Bench, cannot be questioned. As a consequence, W.A.No.178 of 2021 is dismissed. There will be no order as to costs. CMP.No.835 of 2021 is closed.

7. Incidentally, a similar order has also been passed following the orders of the Division Bench of this Court referred supra in W.P.Nos.41002 and 41004 of 2021 on 25.08.2021. Considering the above, this writ petition is allowed with consequential relief to the Petitioner. The Respondents shall implement this order within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected WMPs are closed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar



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2. The District Educational Officer,
Thiruvannamalai District.
3. The Block Educational Officer,
Chengam Block,
Thiruvannamalai District.

+lcc to Mrs.Dakshayani Reddy, Advocate, S.R.No.53787

W.P.No.21886 of 2021

EV[co]
NSK 29/11/2021