



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2021

CORAM :

The Hon'ble Mr.JUSTICE T.S.SIVAGNANAM

AND

The Hon'ble Mrs.JUSTICE S.ANANTHI

W.A. (MD) Nos.911 and 955 of 2020
and

CMP (MD) .Nos.4953 and 5189 of 2020
in

W.P (MD) .No.8171 of 2020
and

W.P. (MD) .No.8046 of 2018

W.A. (MD) No.911 of 2020

1. The District Educational Officer,
Lalgudi Educational District,
Lalgudi,
Tiruchirappalli District.

2. The Block Educational Officer,
Lalgudi Union,
Lalgudi Educational District,
Tiruchirappalli District.

... Appellants/Respondents

Vs

R.Arockia Sagayaraj

... Respondent/Writ Petitioner

Prayer in W.A(MD).No.911 of 2020: Appeal under Clause 15 of the Letters Patent, against the order dated 28.07.2020, passed in W.P. (MD) No.8171 of 2020.

Prayer in WP(MD). 8171/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the entire records pertaining to the impugned orders in proceedings Oo.Mu.761/A1/2019 dated 12.6.2019 passed by the 2nd respondent and quash the same as bad in law and consequently direct the respondents to re-fix the petitioner salary as on 3.7.2016 on the basis of his representation dated 7.4.2018 within the time.

W.A. (MD) No.955 of 2020

1. The District Elementary Educational
Officer, Sivagangai District.



2. The Additional Assistant Elementary
Educational Officer, Kalaiyarkoil,
Sivagangai District.

... Appellants/Respondents 1 and 2
Vs

A.John Peter

... Respondent/Writ Petitioner

Prayer in W.A(MD).No.955 of 2020: Appeal under Clause 15 of the
Letters Patent, against the order dated 28.07.2020, passed in W.P.
(MD) No.8046 of 2018.

Prayer in WP(MD). 8046/ 2018 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court To issue a Writ of
Certiorarified Mandamus calling for the records pertaining to the
order passed by the 2nd respondent in his proceedings in
Na.ka.No.839/A1/2016 dated 03.08.2016 and quash the same and
direct the respondents to step up the petitioners scale of pay
with effect from 17.08.2015 the date on which his junior was given
higher scale of pay with all consequential benefits thereof.

For Appellants	:	Mrs.S.Srimathy, Special Government Pleader in both Writ Appeals
For Respondent	:	Mr.P.M.Vishnuvarthanan, in W.A(MD).No.911 of 2020 Mr.Panneer Selvam in W.A(MD).No.955 of 2020

COMMON JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

These appeals filed by the Education Department is directed
against the order dated 28.07.2020, passed in W.P(MD).Nos.8171 of
2020 and 8046 of 2018.

2. The order impunged in the writ petitions are dated
12.06.2019 and 03.08.2016, by which, the respondents-writ
petitioners' request for stepping up their pay on par with their
juniors, was declined solely on the ground that their juniors were
working in a School in a different Panchayat Union. The
correctness of such a stand has been tested in several cases and
the learned Writ Court by following the decision in W.P(MD).No.742
of 2018 dated 07.02.2018, allowed the writ petitions and aggrieved
over the same, the department is before us.



3. We have elaborately heard Mrs.S.Srimathy, learned Special Government Pleader for the appellants, Mr.V.Panneer Selvam and Mr.P.M.Vishnuvarathanan, learned Counsel appearing for the respondents.

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4. We find that the reasons cited in the orders impugned in the writ petitions are on the ground that the respondents-writ petitioners and the other teachers were working in two different Panchayat Union Schools. Similar issue came up for hearing before this Court on earlier occasions and one such decision in W.P(MD). No.742 of 2018, dated 07.02.2018, was followed by the learned Single Bench. Identical issue was considered by the Division Bench in W.A(MD).No.1220 of 2019, which was filed by the Education Department challenging the order in W.P(MD).No.4231 of 2019 and the department appeal was dismissed holding that the distinction sought to be drawn by the department on the ground that the two teachers are working in two different Panchayat Union Schools is not sustainable. Therefore, we find that there is no error in the order passed in the writ petition.

5. The learned Special Government Pleader appearing for the appellants-Department would vehemently contend that though the reasons given in the orders impugned in the writ petitions may not be fully sustainable, yet the question of stepping up of the pay would not arise, as all pay anomaly issue consequent upon revision of pay and allowances pursuant to the recommendations of the pay commissions are governed by the Tamil Nadu Revised Pay Rules 2017, issued by the Government in G.O.Ms.No.303, Finance (Pay Cell) Department, dated 11.10.2017.

6. The learned Special Government Pleader has drawn our attention to the relevant portions of the Government Order and submitted that if the issue is considered in terms of the guidelines laid down in the Rules, the question of stepping-up of the pay would not arise. We cannot accept this submission made by the department at this juncture for more than one reason. Firstly, the orders impugned in the writ petitions does not refer to G.O.Ms.No.303, for declining stepping up of pay. Secondly in the writ petitions, no such argument was advanced by the department and though in other cases counter affidavits have been filed, this contention was never raised. Even though the impugned order was passed after passing of G.O.Ms.No.303, Finance (Pay Cell) Department, dated 11.10.2017, there is no reference of G.O., in the impugned order.

7. Therefore, based on G.O.Ms.No.303, we cannot interfere in the orders passed in the writ petitions. As in our opinion, if according to the appellants-department the stepping up cannot be



done in terms of the Tamil Nadu Revised Pay Rules 2017, it gives a separate cause of action and therefore, the request of the respondents-teachers should be processed in accordance with the Rules and not for the reasons cited in the impugned order passed in the writ petition, which has been rightly quashed.

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8. Accordingly, while confirming the orders passed in the writ petitions quashing the impugned order therein, we give liberty to the appellants-department to consider the case of the respondents-teachers, based on the Tamil Nadu Revised Pay Rules 2017, in accordance with law and if so advised, by taking into account the relevant Government Orders. Accordingly, orders in the Writ Petitions are confirmed.

9. The Writ Appeals stand dismissed with the aforementioned observation and consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Educational Officer,
Lalgudi Educational District,
Lalgudi,
Tiruchirappalli District.

2. The Block Educational Officer,
Lalgudi Union,
Lalgudi Educational District,
Tiruchirappalli District.



3. The District Elementary Educational Officer, Sivagangai District.

4. The Additional Assistant Elementary Educational Officer, Kalaiyarkoil, Sivagangai District.

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+1 cc to Mr.V.Panneer Selvam , Advocate SR.No.16057

W.A. (MD) Nos.911 and 955 of 2020
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