



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2021

CORAM :

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**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI**

W.A. (MD) Nos.1223 and 1258 of 2020
and
CMP (MD).Nos.6802 and 7171 of 2020

W.A.(MD) No.1223 of 2020

1. The District Elementary Educational Officer, Sivagangai District.
2. The Additional Assistant Elementary Educational Officer, Sivagangai Union, Sivagangai. ... Appellants/Respondents 1 and 2

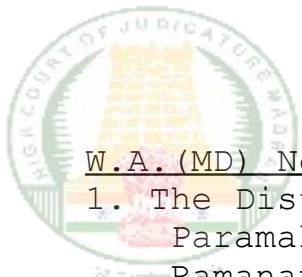
Vs

1. S.Senthil Kumar ... 1st Respondent/Writ Petitioner
2. The Head Master, Panchayat Union Middle School, Mahasivanendal, Sivagangai District. ... 2nd Respondent/3rd Respondent

Prayer in W.A(MD).No.1223 of 2020: Appeal under Clause 15 of the Letters Patent, against the order dated 18.03.2019, passed in W.P. (MD) No.611 of 2017.

Prayer in WP(MD). 611 of 2017 :

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 relating to the impugned order of the 2nd respondent in O.Mu.NO. 541/AA1/2016 dated 12.04.2016 quash the same and consequently direct the respondents herein to fix the pay of the petitioner on par with his junior Tmt. R. Selvi, working as B.T. Assistant in Okkupatti Panchayat Union Middle School, Sivagangai.



W.A. (MD) No.1258 of 2020

1. The District Educational Officer,
Paramakudi Educational District,
Ramanathapuram District.

2. The Block Educational Officer,
Mudukulathur Union,
Paramakudi Educational District,
Ramanathapuram District.
Formerly known as
Assistant Elementary Educational Officer,
Mudukulathur Union,
Ramanathapuram District.

... Appellants/Respondents 1 and 2

Vs

A.Joseph

... Respondent/Writ Petitioner

Prayer in W.A(MD).No.1258 of 2020: Appeal under Clause 15 of the Letters Patent, against the order dated 18.03.2019, passed in W.P. (MD) No.24553 of 2018.

Prayer in WP(MD). 24553 of 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue Writ of Certiorarified Mandamus calling for the entire record pertaining to the impugned proceedings of the 1st respondent in Muu.Mu.4623/aa4/2018 dated 01.10.2018 and quash the same as illegal and arbitrary, and consequently direct the 1st and 2nd respondents to re0fix the petitioner s salary from 01.07.2012 in par with junior Smt.C.Nageswari, on the basis of his representation dated 07.05.2018.

For Appellants	:	Mrs.S.Srimathy, Special Government Pleader in both Writ Appeals
For Respondents	:	Mr.P.M.Vishnuvarthanan, in both Writ Appeals

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 18.03.2019, passed in W.P(MD).Nos.24553 of 2018 and 611 of 2017.



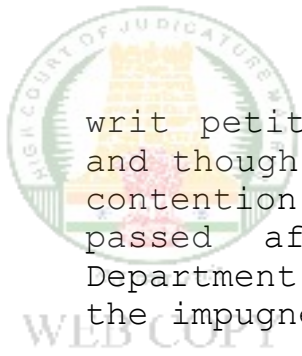
2. The order impugned in the writ petitions is dated 12.04.2016 and 01.10.2018, by which, the respondents-writ petitioners request for stepping up their pay on par with their juniors, which was declined solely on the ground that the particulars stated in the letter by the writ petitioner are not correct and further the post of secondary grade teacher was given earlier to the petitioner. The particulars given in the letter of petitioner is very well available in the department. So the reasons stated in the impugned order are not sustainable. 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 and Mr.P.M.Vishnuvarathanan, learned Counsel appearing for the respondents.

4. 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.

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(P & A)

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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 Elementary Educational
Officer, Sivagangai District.

2. The Additional Assistant Elementary
Educational Officer,
Sivagangai Union,
Sivagangai.

3. The District Educational Officer,
Paramakudi Educational District,
Ramanathapuram District.

4. The Block Educational Officer,
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