



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 18.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P(MD)No.20472 of 2021

S.Alaguraj

... Petitioner

Vs

1.The Director of School Education,
DPI Campus, College Road,
Chennai - 600 0006.

2.The Joint Director of School Education,
[Higher Secondary Education]
DPI Campus, College Road,
Chennai - 600 006.

3.The Chief Educational Officer,
Sivagangai District,
Sivagangai.

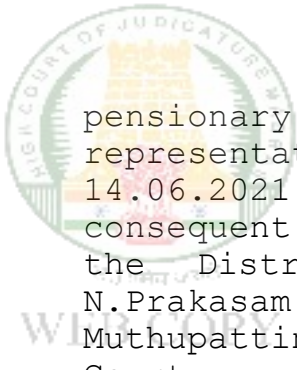
4.The Chief Educational Officer,
Pudukottai District,
Pudukottai.

5.The District Educational Officer,
Puudkottai.

6.The Principal Accountant General (A &E),
361, Anna Salai,
Teynampet,
Chennai - 600 018.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records relating to the order Na.Ka.No.1928/Aa.2/2021, dated 16.09.2021 passed by the 5th respondent and quash the same and consequently direct the 1st respondent to restore the petitioner's pay fixation in the post of High School Headmaster from 20.10.2003 by granting one increment of Rs.275/- in the time scale of pay of Rs.8000-275-13500 (i.e., restore the pay at Rs.9375 + PP 100) and refund the sum of Rs.9381/- collected from the petitioner on 17.06.2005 and grant the consequential monetary benefits and revised



pensionary benefits with arrears, considering the petitioner's representation dated 20.01.2021 in the light of the judgment dated 14.06.2021 passed in W.P(MD)No.9381 of 2008 by this Court and consequent order No.Moo.Mu.7251/Aa.1/12, dated 28.11.2012 passed by the District Educational Officer, Devakottai in respect of N.Prakasam (retired Headmaster of Government Girls High School, Muthupattinam, Karaikudi) within a time limit to be fixed by this Court.

For Petitioner : Mr.A.Thirumurthy
For Respondents : Mr.J.Ashok,
1 to 5 Additional Government Pleader
For Respondent : Ms.S.Mahalakshmi
No.6

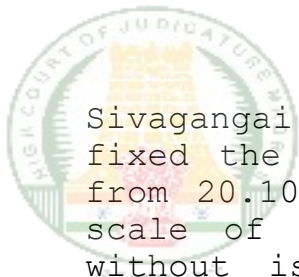
ORDER

This writ petition is filed as against the order dated 16.09.2021, passed by the fifth respondent in Na.Ka.No.1928/Aa.2/2021 and for consequential direction to restore the petitioner's pay in the post of High School Headmaster from 20.10.2003 by granting one increment of Rs.275 in the time scale of pay of Rs.8000 - 275 - 13500 (i.e., restore pay and refund a sum of Rs.9381/- collected from the petitioner on 17.06.2005 and grant consequential monetary benefits and revised pensionary benefits with arrears.

2.The fifth respondent has rejected the request of this petitioner vide impugned order that there is no rule to grant pay fixation on promotion.

3.The learned Counsel for the petitioner submits that the petitioner was initially appointed as Junior Assistant through TNPSC in the School Education Department and joined duty on 23.09.1977. Subsequently, the petitioner was appointed by transfer as B.T.Assistant in a Government High School on 25.07.1980. Thereafter, the petitioner was appointed by transfer as P.G.Assistant (English) on 14.03.2001 in the same scale of pay Rs.8000 - 275 - 13500 (i.e., in the scale of pay applicable to B.T.Assistant (Special Grade) and the petitioner had drawn the pay of Rs.9100 + PP 100 in the scale of pay Rs.8000-275-13500 as on 01.07.2003 in the post of P.G.Assistant (English). Subsequently, the petitioner was promoted as High School Headmaster and posted as Supervisor at Block Resource Centre, Kalaiyarkoil, Sivagangai District by the order Na.Ka.No.44500/C1-C4/2003, dated 18.10.2003 of the 1st respondent / the Director of School Education, Chennai and joined duty as Supervisor, BRC on 20.10.2003.

4.The learned Counsel for the petitioner further submits that as the pay of the P.G.Assistant and High School Headmaster are identical, the third respondent / Chief Educational Officer,



Sivagangai in the order Na.Ka.No.10722/Aa.2/2004, dated 16.07.2004 fixed the petitioner's pay in the post of High School Headmaster from 20.10.2003, by granting one increment of Rs.275/- in the pay scale of Rs.8000-275-13500, i.e., at Rs.9375 + PP.100. However, without issuing any prior notice, the third respondent / CEO, Sivagangai passed order O.Mu.No.8767/Aa.2/2004, dated 08.10.2004 cancelling the one increment of Rs.275/- granted to the petitioner in the time scale of pay of Rs.8000 - 275 - 13500, from 20.10.2003 for the petitioner's promotion as High School Headmaster and it was also ordered for recovery of the alleged excess pay and allowance paid to the petitioner.

5.The learned Counsel also submits that subsequently, the petitioner was promoted as Higher Secondary School Headmaster on 27.08.2007 in the same scale of pay of Rs.8000-275-13500 and the petitioner retired from service on superannuation on 31.03.2011 and after extension of service, he was also relieved from the post of Headmaster, Government Higher Secondary School, Keelaniyakottai, Pudukottai District on 31.05.2011. Further, in an identical issue of one N.Prakasam, retired Headmaster of a Government High School, his pay was fixed in the post of High School Headmaster by granting one increment due to the identical scale of pay in the post of P.G.Assistant and High School Headmaster and the same was cancelled subsequently. When the said order was challenged in W.P(MD)No.9381 of 2008, this Court relying on the order dated 23.11.2010 passed in W.P(MD)No.7439 of 2008, has quashed the said order dated 21.04.2006 passed by the District Educational Officer, Devakottai against the said N.Prakasam and directed to refund the recovered amount. In compliance of the above direction, the pay fixation has been restored to the said N.Prakasam by granting one increment from the date of his promotion as High School Headmaster, i.e., on 01.07.2003.

6.The learned Counsel for the petitioner further submits that in view of the above, the petitioner is also entitled for the relief and therefore, the petitioner submitted a representation, dated 21.01.2021 to the authorities concerned and subsequently filed a writ petition in W.P(MD)No.6118 of 2021 before this Court for a mandamus to consider his representation and the said writ petition was disposed of by this Court by order dated 18.03.2021 with a direction to the first respondent to consider the petitioner's representation dated 21.01.2021. Pursuant to the orders of this Court, the impugned order came to be passed by the fifth respondent that there is no rule for grant of pay fixation and promotion.

7.The learned Additional Government Pleader appearing for the respondents submitted that though the petitioner has been granted one increment of Rs.275/- in time scale of pay of Rs.8000-275-13400, later it came to know that the said increment has been wrongly granted to the petitioner and therefore, the order granting



there is no provision for pay fixation on promotion. Therefore, there is no reason to interfere with the impugned order.

8. Heard the learned Counsel on either side and perused the materials placed on record.

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9. It is seen that the petitioner was initially appointed as Junior Assistant. Subsequently, he was appointed as B.T. Assistant in the year 1980 and later was promoted as High School Headmaster in the year 2003. While so, under misconception that the High School Headmaster's pay is identical to the pay of P.G. Assistant, his salary has been fixed by granting one increment of Rs.275 in the scale of pay of Rs.8000-275-13500. The said mistake has been rectified by order dated 08.10.2004 and the order of one increment of Rs.275/- granted to the petitioner was cancelled and the order of recovery was also passed. The petitioner has also filed an appeal as against that order, before the Chief Educational Officer and the same was rejected. The petitioner has not challenged the said order of rejection and the amount was also recovered from the petitioner. Thereafter the petitioner retired from service in the year 2011 on attaining the age of superannuation and was also relieved on 31.05.2011 after extension of service. After ten years, the petitioner sent a representation on 21.01.2021 that one Prakasam similarly placed person was provided with increment.

10. Pursuant to the order passed in W.P(MD)No.6118 of 2021, the impugned order came to be passed. The fifth respondent in the order has specifically mentioned that there is no rule to grant pay fixation on promotion. The learned Counsel for the petitioner has not referred to any provision, which entitles the petitioner for pay fixation on promotion. Admittedly, the petitioner on wrong notion that he has to be treated on par with P.G. Assistant has been wrongly fixed with time scale of pay at Rs.8000-275-13500 with increment of Rs.275/- and that order was also subsequently cancelled. The petitioner has sent a representation after a long period ten years.

11. In the absence of any specific provision granting such pay fixation on promotion and in view of laches, this Court is not inclined to interfere with the impugned order. Therefore, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dsk

<https://hcservices.ecourts.gov.in/hcservices/>



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 Director of School Education,
DPI Campus, College Road,
Chennai - 600 0006.
- 2.The Joint Director of School Education,
[Higher Secondary Education]
DPI Campus, College Road,
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Pudukottai.
- 5.The District Educational Officer,
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- 6.The Principal Accountant General (A &E),
361, Anna Salai,
Teynampet,
Chennai - 600 018.

+1 CC to M/s.A. THIRUMURTHY, Advocate(SR-35120[F] dated 19/11/2021)

+1 CC to M/s.SPL GP (SR-35168[F] dated 19/11/2021)

W.P(MD)No.20472 of 2021

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MGJ(10.12.2021) 5P 9C