



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2021

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P. (MD)No.17839 of 2016

M.Chinniah

... Petitioner

vs.

The Principal Accountant General (A&E),
No.361, Anna Salai,
Chennai - 600 018.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in No.P10/2/11017370/ADK, dated 01.07.2016 on the file of the respondent and to quash the same as illegal and consequently to direct the respondent to rectify the pay difference by way of stepping up the scale of pay of the petitioner on par with the pay of Secondary Grade Teacher Special Grade/ Elementary School Head Master which was the substantive post held by the petitioner with effect from 09.12.1991 and disburse the monetary benefit along with arrears in accordance with the Rule 4(3) of the Tamil Nadu Revised Scale of Pay Rules, 1989 within the time period stipulated by this Court.

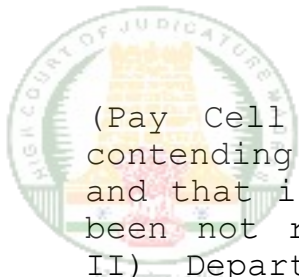
For Petitioner : Mr.T.Layapathi Roy

For Respondent : Mr.P.Gunasekaran

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order dated 01.07.2016 and consequently to direct the respondent to rectify the pay difference by way of stepping up the scale of pay of the petitioner on par with the pay of Secondary Grade Teacher Special Grade/ Elementary School Head Master which was the substantive post held by the petitioner with effect from 09.12.1991 and disburse the monetary benefit along with arrears in accordance with the Rule 4(3) of the Tamil Nadu Revised Scale of Pay Rules, 1989 within the time period stipulated by this Court.

2.The petitioner was working as Secondary Grade Teacher in Selection Grade post. Thereafter, the petitioner was promoted as B.T. Assistant on 06.12.1988. After serving for 18 years, the petitioner retired on 31.05.2006 as B.T. Assistant. The petitioner is now seeking to refix her salary based on G.O.Ms.No.57, Finance



(Pay Cell II) Department, dated 29.01.1991. The petitioner is contending that a similarly placed person is receiving more pension and that is how it has come to his knowledge that his pay scale has been not revised in accordance to G.O.Ms.No.57, Finance (Pay Cell II) Department, dated 29.01.1991. The petitioner retired from service and his plea was considered by the respondent and has passed the impugned order, where it has been stated in G.O.Ms.No.69, School Education Department, dated 18.04.2013, that the Rule 4 (3) of Tamil Nadu Revised Scales of Pay Rules, 1989, is not applicable. Hence, the service register and revised pension proposals are returned herewith. Aggrieved over the impugned order, the petitioner has filed this Writ Petition.

3.The respondent has not filed counter affidavit. But, has explained, the petitioner has opted to fix the salary in the B.T. Assistant cadre as early as 1988 itself. Once the petitioner has opted an option granted under the rule then, the petitioner cannot seek to revise the option and take the other option. The Rule 4(3) has categorically stated that the option once exercised shall be final and the respondent has quoted the Rule 4(3) and rejected the claim of the petitioner.

4.Heard Mr.T.Layapathi Roy, learned Counsel appearing for the petitioner and Mr.P.Gunasekaran, learned Counsel appearing for the respondent.

5.This Writ Petition cannot be entertained for two reasons. The petitioner has accepted that she has opted to fix the pay scale in the B.T. Assistant post as early as 06.12.1988 and has served as B.T. Assistant for more than 18 years. If the petitioner has opted to fix the scale of pay as early as 1988, after a lapse of so many years, the petitioner is not entitled to seek refixation, since the latches is staring at the petitioner. As far as Rule 4(3) is concerned, it states that once the option is exercised, it is final. Therefore, on the ground of Rule 4(3) also the petitioner is not entitled to.

6.Hence, the Writ Petition is dismissed. No costs.

Sd/-

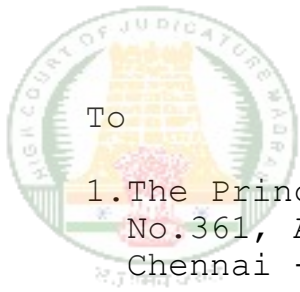
Assistant Registrar (W)

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Sub Assistant Registrar(CS)

Tmg



To

1.The Principal Accountant General (A&E),
No.361, Anna Salai,
Chennai - 600 018.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-39010[F] dated
16/12/2021)

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