



W.P. No. 2311 of 2020

WEB COPY

W.P.No.2311 of 2020

ABDUL QUDDHOSE, J.

The matter is listed under the caption “for being mentioned” today.

This Court, while issuing the order copy to both the parties, has wrongly mentioned the year of the Writ Petition as 2021, whereas, the correct year is 2020. Registry is directed to make the necessary correction and issue a fresh order copy to both the parties by mentioning the Writ Petition number as W.P.No.2311 of 2020.

31.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Lm

Note: Issue order copy by 05.04.2023.



W.P. No. 2311 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2022

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P. No.2311 of 2021

A. Sheik Fareeth

...Petitioner

Vs.

1. The Director of Elementary Education,
DPI Campus, College Road,
Nungambakkam, Chennai – 6.
2. The Joint Director (JD) Administration,
Directorate of Elementary Education,
DPI Campus, College Road,
Nungambakkam, Chennai – 6.
3. The Chief Educational Officer,
Vellore District, Vellore -9.
4. District Educational Officer,
Ranipet Educational Dist.,
Ranipet – 632 401.
5. Block Educational Officer,
Poonammaravathy Block,
Pudukkottai District.



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6. Block Educational Officer,
BEO – Walaja (East),
Ranipet Educational Dist.,
Ranipet 632 401.

7. The Headmistress,
Municipal Middle School,
Karai, Ranipet – 632 404.

...Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to proceedings of Na.Ka. No. 0383/A3/2019 dated 23.12.2019 issued by the 4th respondent and quash the same and direct the 4th respondent to confirm the pay anomaly order under his own proceedings Na.Ka.No.0383/A3/2019 dated 07.03.2019 to the petitioner.

For Petitioner :: Mr.G. Murugendran

For Respondents :: Mr.S. Yashwanth,
Addl. Govt. Pleader

ORDER

In this writ petition, the petitioner is aggrieved by the rejection order



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dated 23.12.2019 passed by the 4th respondent rejecting the petitioner's request to rectify the pay anomaly and to step up the scale of pay in his favour on par with his junior Mrs.R. Susanna.

2. The 4th respondent has rejected the petitioner's request on the ground that the petitioner and R. Susanna belong to different Unions.

3. Heard Mr.G. Murugendran, learned counsel for the petitioner and Mr.S.Yashwanth, learned Additional Government Pleader for the respondents.

4. A counter affidavit has been filed by the respondents denying the contentions of the petitioner in this writ petition. They have reiterated the reasons given in the impugned order for rejecting the petitioner's request for stepping up the scale of pay on par with his junior Mrs.R. Susanna.

5. The learned counsel for the petitioner drew the attention of this Court to an order dated 07.02.2018 passed by the Madurai Bench of this Court in W.P. (MD) No.742 of 2018 and would submit that in similar circumstances, the Madurai Bench of this Court set right the pay anomaly, even though the junior was from a different Union.

6. The learned counsel for the petitioner also drew the attention of



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this Court to another decision rendered by a learned Single Judge of this Court on 03.04.2019 in W.P. No.10424 of 2006 and would submit that the refusal to apply the Tamil Nadu Revised Scale of Pay by the respondents to persons appointed in different Unions or units is untenable.

7. In the said order passed by a learned Single Judge, it was held that the petitioner therein was entitled to step up in the Scale of pay on par with his junior with all consequential benefits.

8. Per contra, the learned Additional Government Pleader appearing for the respondents would reiterate the contents of the counter affidavit filed by the 4th respondent in his submissions.

9. The petitioner was appointed as Secondary Grade Teacher in Pudukottai District, Ponnamaravathy Union School on 05.07.1988. The petitioner's junior Mrs.R. Susanna also came to be appointed as Secondary Grade Teacher in Ponnamaravathy Union in Pudukkottai District on the same date i.e, 05.07.1988. The petitioner was promoted as Headmaster in the same Union on 27.08.1999 and before becoming Headmaster, he had received two incentive increments based on higher qualifications. However, due to family situation, the petitioner was transferred to Walaja Union,



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Vellore District and joined as Secondary Grade Teacher after reduction of his Headmaster rank. At present, he is working as Graduate Teacher, Municipal Middle School, Kharai, Walaja, Ranipet District. As far as the petitioner's junior Mrs.R. Susanna is concerned, she was promoted as Headmaster on 29.11.1999 and she also got two incentives on 28.07.2011 based on higher qualification and her pay has been fixed at Rs.25,710 whereas the petitioner, who is a senior and who got promotion as Headmaster ahead of his junior on 27.08.1999 is receiving lesser pay and his pay has been fixed at Rs.22,950 as on 28.07.2011. Since the petitioner's pay was less when compared to his junior's pay Mrs.R. Susanna, even though both of them were appointed on the same date in the same Union and being older in age, and naturally being her senior, the petitioner, aggrieved by lesser pay, gave a representation to the 4th respondent on 22.01.2019 requesting them to step up his pay on par with his junior Mrs.R. Susanna, which has now been rejected under the impugned order on the ground that pay anomaly can be rectified only among those teachers, who are appointed and working in the same unit.

10. The 4th respondent while passing the impugned order dated



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23.12.2019 has relied upon a Circular dated 11.08.2016 issued by the 1st respondent. As seen from the impugned order, the contentions of the petitioner in this writ petition have not been considered and the decisions relied upon by the learned counsel for the petitioner, which seems to be on a prima facie consideration identical to the facts of the instant case have also not been considered. In both the decisions relied upon by the learned counsel for the petitioner, the petitioners therein were appointed in different Unions and this Court in both the decisions has held that there must be pay parity between the two employees. Since the contentions of the petitioner that have been raised in this writ petition have not been considered by the respondents and the decisions relied upon by the learned counsel for the petitioner have also not been considered, this Court is of the considered view that the impugned order has to be quashed and the matter has to be remanded back to the 4th respondent for fresh consideration on merits and in accordance with law, within a time frame to be fixed by this Court.

11. For the foregoing reasons, the impugned order dated 23.12.2019 passed by the 4th respondent is hereby quashed and the matter is remanded back to the 4th respondent for fresh consideration.



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12. The petitioner is directed to enclose the copies of the decisions relied upon by him to the 4th respondent for his consideration, within a period of two days from the date of receipt of a copy of this order and the 4th respondent is directed to pass final orders on merits and in accordance with law, within a period of eight weeks, thereafter.

13. With the aforesaid directions, this writ petition stands disposed of. No costs.

24.11.2022

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
nv

To

1. The Director of Elementary Education,
DPI Campus, College Road,
Nungambakkam, Chennai – 6.
2. The Joint Director (JD) Administration,
Directorate of Elementary Education,
DPI Campus, College Road,
Nungambakkam, Chennai – 6.



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3. The Chief Educational Officer,
Vellore District, Vellore -9.
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Ranipet – 632 401.
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Poonammaravathy Block,
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