



W.P.No.7421 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	03.08.2022
Pronounced on	29.09.2022

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.7421 of 2010
and M.P.No.1 of 2010

Mrs.V.Arumugam

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
Fort St.George,
Chennai – 600 009.
- 2.The Director of Elementary Education,
College Road,
Chennai – 600 006.
- 3.The Director of School Education,
College Road,
Chennai – 600 006.
- 4.The Chief Educational Officer,
Nagapattinam.
- 5.The District Educational Officer,
Mayiladuthurai – 6009 001.

... Respondents



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Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the second respondent in Na.Ka.No.10125/L2/209 dated 29.09.2009 and quash the same and direct the second respondent to grant pay protection and monetary benefits to the petitioner as that of Elementary Head Master scale of pay by extending the benefits of the G.O.Ms.No.202 (School Education Department) dated 24.09.2008.

For Petitioner : Mr.K.C.Ramalingam

For Respondents : Mr.S.Silambanan,
Additional Advocate General
Assisted by,
Mr.V.Ramesh

ORDER

The learned counsel for the petitioner submitted that the petitioner viz., V.Arumugam was appointed as Higher Grade Teacher in the Pattamangalam Municipal Elementary School, Mayiladuthurai on 19.06.1967 and



subsequently promoted as Head Mistress at Peria Erakali Street Municipal Elementary School on 18.07.1967 and continued as Head Master

in various Municipal Elementary Schools till 21.07.1981. This being so, the petitioner was transferred to Kittappa Municipal Higher Secondary School, Koranadu, Mayiladuthurai on 22.07.1981 and posted as Secondary Grade Teacher due to administrative reasons. At that time, there was no disparity in pay scales between the post of Elementary Head Master and Secondary Grade Teacher. Therefore, the petitioner did not raise any objection for being transferred and posted as Secondary Grade Teacher.

2. The learned counsel for the petitioner further submitted that after the introduction of V Pay Commission in the year 1988, the pay scale was changed and the Elementary School Head Master was given higher scale of pay than the Secondary Grade Teacher. Therefore, teachers who worked as Elementary School Head Master and transferred as Secondary Grade Teachers were highly affected. Moreover, this type of pay anomaly had arisen not only in the Municipal Schools but also in the Panchayat Union



Schools. Hence, the affected teachers had approached the Tamil Nadu Administrative Tribunal for pay protection as that of Elementary School Head Master. The Tamil Nadu Administrative Tribunal on 13.02.2002 in a batch of Application in O.A.No.6090 of 1995 had held that the affected teachers shall be entitled for a pay protection as that of Elementary School Head Master.

2.1. The above batch includes O.A.No.1210 of 1997, in which, one Mr.E.S.Arumugam, who was working as Head Master in a Panchayat Union School was transferred to Rasipuram Municipal School and he continued to work in the said Municipal School till his retirement. This O.A.No.1210 of 1997 was allowed and the said E.S.Arumugam was also granted pay protection as that of Elementary School Head Master. Therefore, it is clear that the basic principle laid down in the above order is that an Elementary School Head Master who was transferred due to administrative reason or at his option was granted pay protection, irrespective of the schools in which he was working, whether it was a Panchayat Union School or Municipal School.



3. The learned counsel for the petitioner contended that after a lapse of four years, the respondents have challenged the orders passed in O.A.No.6090 of 1995 batch by filing writ petition in W.P.No.43010 of 2006 before this Court. In the writ petition, the respondents categorically contended that a teacher who was transferred due to administrative reasons within same union alone is entitled for pay protection and not the persons who were transferred at their willingness. The Division Bench of this Court on 05.12.2007, dismissed the writ petition, confirmed the order of the Tribunal passed in O.A.No.6090 of 1995 batch.

3.1. Even after the dismissal of the writ petition, the respondents did not come forward to implement the order of this Court. Therefore, the affected teachers filed contempt petition No.325 of 2008 batch. Only thereafter, the respondents have come forward with G.O.Ms.No.202 of 2008 dated 24.09.2008, granting pay protection to the teachers for those who filed cases before this Court and also who have not filed cases.



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4. The learned counsel for the petitioner further submitted that the petitioner has made a representation dated 03.11.2008, before the first respondent, requesting him to extend the benefit of the G.O.Ms.No.202 of 2008 dated 24.09.2008. She has also sent a copy of the said representation to the second respondent. As the representation was not considered, the petitioner has filed a writ petition in W.P.No.6172 of 2009 before this Court, praying to direct the respondents to fix the pay as on 01.06.1988 in the scale of pay applicable to the Head Master of Elementary School, duly counting

the services in both the post of Elementary School Head Master and Secondary Grade Teacher, in the light of the aforesaid G.O. and to pay arrears of attendant benefit, retirement and pension benefits. On 13.04.2009, this Court has passed an order, directed the respondents to consider the petitioner's representation dated 03.11.2008, within a period of eight weeks from the date of receipt of that order. Thereafter, the second respondent by his proceedings in Na.Ka.No.10125/L2/2009 dated 29.09.2009, rejected the representation of the petitioner dated 03.11.2008. Aggrieved over the order of the second respondent dated 29.09.2009, the petitioner has come forward



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with the present writ petition.

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5. The learned Additional Advocate General appearing for the respondents submitted that the original Service Register of the petitioner is not traceable. But a copy of the Service Register was already prepared and duly attested on 14.08.1996 by the concerned authorities. The aforesaid Government Order was issued only in respect of Panchayat Union Teachers and it is not applicable to the teachers worked in Municipal Schools. Further, the petitioner was working only as Secondary Grade Teacher since her date of appointment on 19.06.1967 to till her date of superannuation on

31.05.1999. The petitioner was declared probation on 14.06.1970 (SR. Pg.No.9) and awarded Selection Grade on 08.01.1980 (SR. Pg.No.21) and Special Grade on 08.01.1990 for the post of Secondary Grade Teacher.

6. The learned Additional Advocate General further submitted that the petitioner was holding the post of Secondary Grade Teacher as on



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01.01.1986, 01.01.1987, 01.01.1988 vide entries in para No.26 of Vol.I of Service Register and there was no occasion for reversion from the post of Primary School Head Master to the post of Secondary Grade on or after 01.06.1988. Moreover, there was no sanctioned post of Head Master with a separate scale of pay upto 31.05.1988 and one of the Senior Teacher working in the School was designated as Headmaster for administrative purpose only. Hence, the petitioner is not entitled for any pay protection and monetary benefits as per G.O.Ms.No.202 dated 24.09.2008.

7. Heard the learned counsel on either side and perused the material documents available on record.

8. It can be seen from the records that the petitioner was appointed as Higher Grade Teacher on 19.06.1967 and subsequently appointed as Secondary Grade Teacher and attained the age of superannuation on 31.05.1999. The petitioner has only worked as Secondary Grade Teacher and never worked as Head Mistress as claimed by her.



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9. It is pertinent to note that in the impugned order dated 29.09.2009 passed by the second respondent, it was mentioned that the petitioner was working as a Head Mistress in Mayiladuthurai Municipal Elementary School and due to administrative reason, she was transferred to Koranadu Kittapa Municipal Higher Secondary School and for this reason she was not entitled for any benefits under G.O.Ms.No.202 dated 24.09.2008. But the stand taken in the counter affidavit filed by the respondents 2 & 5, it was categorically stated that the petitioner has never worked as Head Mistress at any point of time, which is contrary to the impugned order dated 29.09.2009. Hence, this Court drew the attention of the learned Additional Advocate General appearing for the respondents to the impugned order dated 29.09.2009 passed by the second respondent and the learned Additional Advocate General has replied that it has been mentioned inadvertently by the second respondent and submitted that the petitioner has never worked as Head Mistress.



10. On perusal of the records, it is clear and evident that the petitioner has never worked as Head Mistress and she was only worked as Secondary Grade Teacher. Moreover, it is pertinent to extract the entries in the Service Register of the petitioner hereinbelow:

SR Page	Entries in col.1.	Col.5/6 pay	Date
20/vol.I	Secondary Grade,MHS Koranad vide Rc.8085/81/C2.18.7.81	<u>450</u> 350-10-420-15-600	22.07.1981
24/vol.I	Secondary Grade Selection Grade	<u>530</u> 400-15-490-20-650- 25-700	01.01.1984
26/vol.I	Secondary Grade Asst. Selection Grade	985 705-20-745-25-845- 35-1030	01.01.1986
8/vol.II	Secondary Grade Asst.	1880+11pp 1640-60-2600-75- 2900	01.01.1996

In view of the above, it is evident that the petitioner had worked only as Secondary Grade Teacher (Selection Grade) and Special Grade and not worked as Head Mistress. Hence, she is not entitled for a pay protection and monetary benefits under G.O.Ms.No.202 (School Education Department) dated 24.09.2008.



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11. In view of the above facts and circumstances, this Court is not inclined to interfere with the proceeding passed by the second respondent in Na.Ka.No.10125/L2/209 dated 29.09.2009 and the same is hereby confirmed. In the result, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

29.09.2022

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Index : Yes/No

Speaking Order : Yes/No



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J.SATHYA NARAYANA PRASAD,J.

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To:

1.The Secretary to Government,
State of Tamil Nadu,
School Education Department,
Fort St.George,
Chennai – 600 009.

2.The Director of Elementary Education,
College Road,
Chennai – 600 006.

3.The Director of School Education,
College Road,
Chennai – 600 006.

4.The Chief Educational Officer,
Nagapattinam.

5.The District Educational Officer,
Mayiladuthurai – 6009 001.

Pre-delivery order in

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29.09.2022