



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.6763 of 2022
and
W.M.P.No.6842 of 2022

S.F.Sulaiman

... Petitioner

vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary
to Government,
School Education Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Commissioner,
Commissionerate of School
Education,
DPI Campus, College Road,
Chennai - 600 006.

3.The Joint Director of School
Education (Higher Secondary),
Commissionerate of School
Education,
DPI Campus, College Road,
Chennai - 600 006.

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

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the 3rd respondent in Na.Ka.No.76114/W2/E1/2016 dated 21.06.2017 and to quash the same and consequently directing the respondents to grant fixation of pay on appointment in the post of P.G. Assistant (Maths) based on last drawn salary in the aided



post, with a consequential and other attendant benefits, including payment of arrears of salary.

For Petitioner : Mr.S.Nedunchezhiyan

For Respondents : Mr.V.Manoharan
Additional Government Pleader

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O R D E R

By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

2. According to the writ petitioner, the petitioner was initially appointed as PG Assistant (Maths) in the Government Aided School and after completion of 10 years of service, he was granted selection grade in the post of P.G Assistant with effect from 31.05.2020. Subsequently, based on the notification issued by the Teachers Recruitment Board, the petitioner applied to the post of P.G Assistant (Maths) and he was selected and appointed to the post of P.G Assistant (Maths) on 11.01.2013. Thereafter, he was relieved from the aforesaid post from the Aided School on 10.01.2013 and joined the service in the post of P.G Assistant in School Education Department on 11.01.2013, The petitioner was granted basic pay for the post of P.G Assistant (Maths) as a new entrant to the post without taking into consideration of the salary already received by him in the post of P.G Assistant in the Aided Institution. The similarly placed persons have got the benefit of fixation of pay from the previous post of same cadre. The respondent has considered the petitioner as new entrant without taking into consideration the earlier service rendered by him and joined in the School Education Department in the same post as P.G Assistant (Maths) in the Aided Institution and therefore, the respondent ought to have taken into account the earlier service rendered by the petitioner for fixation of pay for the post of P.G Assistant (Maths). Without taking into consideration, the 3rd respondent has passed an impugned order by his proceedings dated 21.06.2017. Challenging the aforesaid impugned order, the petitioner has filed the instant writ petition before this Court.

3. Mr.V.Manoharan, learned Additional Government Pleader takes notice for the respondents and he would submit that the issue involved in the writ petition is no longer res-judicata and the same has been decided in the judgment of the Hon'ble Division Bench this Court, in W.A. No.1118 of 2019 dated



05.03.2021.

4. Whereas, this Court drew its attention to the aforesaid decision in paragraph nos.22 & 23, which reads as follows:

22. In support of the writ petitioner's contention that he was transferred from Social Welfare Department to Educational Department, he relied upon the proceedings dated 17.03.2003 of the third respondent / State Commissioner for Differently Abled, which was pursuant to the representation given by the writ petitioner on 23.12.2002, but in the said proceedings also, absolutely nothing had been stated about the transfer from Social Welfare Department to Educational Department.

23. Further, according to the learned counsel for the writ petitioner, the writ petitioner is entitled for pay protection as per the said G.Os. However, on a reading of the said G.Os, it reveals that those G.Os are applicable only to the Aided School teachers, who got prior permission for getting transferred from one Department to another. But, the writ petitioner herein was appointed as a fresh appointee in the Panchayat Union Elementary School pursuant to his name sponsored by the District Employment Exchange. Hence, the said G.Os. are not applicable to the case of the respondent. Further, we find that the writ petitioner / respondent, soon after his appointment in the Education Department, got relieved from the Social Welfare Department without waiting for any orders to be passed by the Social Welfare Department conferring pay protection. Even the writ petitioner has not sought for pay protection in writing prior to joining the post of Secondary Grade Teacher in the Education Department. In such circumstances, claim for pay protection raised by the respondent/writ petitioner, cannot be countenanced".

The aforesaid decision squarely applies to the facts of the case on hand. Therefore, there is no need to interfere with the order passed by the 3rd respondent and there is no merits in the petition and the same is liable to be dismissed.



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5. In fine, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-IV)

// True Copy //

Sub Assistant Registrar

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To

- 1.The Principal Secretary
School Education Department,
Secretariat, Fort St.George,
Chennai - 600 009.
- 2.The Commissioner,
Commissionarte of School Education,
DPI Campus, College Road,
Chennai - 600 006.
- 3.The Joint Director of School Education (Higher Secondary),
Commissionarte of School Education,
DPI Campus, College Road,
Chennai - 600 006.
- 4.The Chief Educational Officer,
Chengalpattu District,
Chengalpattu.

+1cc to Mr.G.Sankaran, Advocate SR.No.22054
+1cc to the Government Pleader, SR.No.22222

W.P.No.6763 of 2022
and
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GPL(CO)
CB(21/04/2022)