



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:25.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.573 of 2015

S.Chitra

...Petitioner

Vs.

1.The Joint Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.

2.The Chief Educational Officer,
Villupuram District.

...Respondents

PRAYER: This Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records which culminated in issuing the proceedings in O.Mu.No.075889/L/E3/2014, dated nil.09.2014 on the file of the first respondent, quash the same and consequently direct the respondents to step up the pay of the petitioner on par with her junior as per Rule 5(2) of the Pay Commission Rules.

For Petitioner : Mr.S.Mani
For Respondents : Mr.T.Chezhiyan
Additional Government Pleader

ORDER

When the petitioner herein had compared her pay with that of her junior, namely Ms.A.Jamunadevi and sought for rectification of the anamoly in her pay scales, the first respondent herein through the impugned order passed in November 2014, stated that the incentive increment for the higher qualification drawn by the petitioner and her junior, is not for the same subject. As per the impugned order, the petitioner had drawn incentive increment for M.Ed degree and her junior had drawn the incentive increment for M.A degree, which is contrary to the Government Order in G.O.Ms.No.710, Finance (CMPC) Department, dated 23.08.1994.

2. Certain facts with regard to the petitioner's service are that she had joined as Secondary Grade Assistant on 28.07.1995. On completion of 10 years, she got her Selection Grade Pay on



28.07.2005 and consequently, was promoted to the post of B.Ed Assistant on 12.07.2008. She obtained her higher qualification in B.Ed degree on 28.07.1995 and M.Ed degree on 27.05.1999. She had also passed her M.A. Degree in the year 2005. As per the Government Orders, she was awarded with four set of incentive increments for B.Ed on 28.07.1999 as per the 4th Pay Commission and another set of two increments for M.Ed degree on 27.05.1999 as per the 5th Pay Commission.

3. The petitioner's junior Ms.A.Jamunadevi, joined on 31.07.1995 as Secondary Grade Assistant and obtained her Selection Grade Pay on 31.07.2005 and subsequently, promoted as B.T.Assistant on 12.07.2008. She also obtained four sets of incentive increments for B.Ed on 28.01.2007 and for M.Ed on 29.05.2009, both were sanctioned as per the 5th Pay Commission. As on 01.01.2006, the petitioner was drawing pay scale of Rs.15,700/-, as against the juniors pay scale of Rs.15,230/-. After the incentive increments were sanctioned to the petitioner's juniors, anomaly arose in the pay scale, whereby the junior is drawing more than the petitioner.

4. Rule 5 (2) of the Tamil Nadu Revised Scales of Pay Rules, 1998 provides as follows:

"2.In cases where a senior employee who had drawn incentive increments in the pre-revised scale and drawn more pay than his junior prior to 1st January 1996 draws lesser pay than his junior in the revised scales of pay consequent on the sanction of incentive increments in the revised scales of pay to the junior for acquiring the same higher / special qualification after introduction of revised scales of pay, then the pay of the senior may be stepped up to the level of that of the junior from the date from which the junior draws such higher pay."

5. As per the above Rule, when the junior draws higher scale of pay owing to the sanction of incentive increments, the pay of the senior requires to be stepped up to the level of the junior, from which junior draws such higher pay.

6. G.O.Ms.No.1024, Education, Science and Technology Department, dated 09.12.1993, provides that a Secondary Grade Teacher who has passed B.T. or B.Ed Degree Examination and obtained two advanced increments, shall be eligible for another two advanced increments for passing M.A., M.Sc., or M.Ed degrees, while working either in the Secondary Grade Post of B.T., or B.Ed Assistant Post. A B.T. Teacher, after passing M.A., or M.Sc., have obtained two advanced increments, shall be eligible for another two, if qualified in the M.Ed degree, while



working in the B.T.Assitant Post or Head Master Post.

7. If Rule 5 (2) of the Tamil Nadu Revised Scales of Pay Rules, 1998 is read in conformity with G.O.Ms.No.1024, dated 09.12.1993, the reasoning adopted by the respondents that since the petitioner's junior had drawn incentive increment for M.A. Degree, cannot be compared with incentive increment drawn by the petitioner for M.Ed degree, cannot be substantiated.

8. The learned Additional Government Pleader for respondents made an effort to rely on G.O.Ms.No.710, Finance (CMPC) Department, dated 23.08.1994, and the subsequent clarification issued by the Director of School Education, dated 03.01.2000 and submitted that the petitioner cannot compare herself with the junior, who had drawn the incentive increment for M.A. degree, whereas the petitioner has drawn such increment for only M.Ed degree. The clarification issued by the Director of School Education, may not be applicable to the present case in hand. Since what is relied upon by the petitioner herein is from the provisions of the Tamil Nadu Revised Scales of Pay Rules 1998, which provides for rectification of anomalies of the pay scales between the senior and junior, in consequence to award of incentive increments. The clarification is to a Government Order, dated 23.08.1994 which was prior to the Tamil Nadu Revised Scales of Pay Rules and such a clarification cannot override the provisions of the Rules.

9. As such, the impugned order of the first respondent cannot be sustained and consequently, the anomaly that had arisen in the pay scales of the petitioner and her junior Ms.A.Jamunadevi, requires to be rectified.

10. In the light of the above findings, the impugned order dated Nil.09.2014, on the file of the 1st respondent, is quashed. Consequently, there shall be a direction to the 1st respondent herein to pass appropriate orders, stepping up the petitioner's pay, on par with her junior, from the date on which the anomaly in the pay scale had arisen and disburse all the arrears of monetary benefits to the petitioner, within a period of six weeks from the date of receipt of a copy of this order.

11. Accordingly, the Writ Petition stands allowed. No costs. Connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

//True Copy//

Sub-Assistant Registrar

Pns



To

1. The Joint Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.

2. The Chief Educational Officer,
Villupuram District.

+1cc to Mr.S.Mani, Advocate, S.R.No.28550

+1cc to the Government Pleader, High Court of Madras, S.R.No.28888

W.P.No.573 of 2015

SS(CO)
RN(01/06/2022)