



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM

THE HON'BLE MR.JUSTICE PARESH UPADHYAY
AND
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.A.NO.1425 OF 2022
& C.M.P.NO.9222 OF 2022

- 1.The Director of Elementary Education,
DPI Complex, College Road,
Nungambakkam, Chennai.
- 2.The District Elementary Educational Officer,
Tiruvarur, Tiruvarur District.
- 3.The Assistant Elementary Educational Officer,
Valangaiman, Tiruvarur District. ...Appellants

Vs

S.Rajaiah ...Respondent

Appeal preferred under Clause 15 of Letters Patent against the order dated 13.07.2021 made in W.P.No.15298 of 2017.

Prayer in W.P.No.15298 of 2017 : The Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 3rd respondent in connection with his order of rejection in proceedings in A.Thi.Mu.No.1410/2015/A2 dated 29.06.2016 and quash the same and consequently direct the respondent to rectify the pay anomaly by stepping up the pay of the petitioner on par with junior as done in a similar case consequent to judgment dated 18.06.2012 in W.P.No.3698 to 3700 of 2007.

For Appellants : Mrs.S.Mythreye Chandra
Special Government Pleader

JUDGMENT
(Made by PARESH UPADHYAY, J.)

1. Challenge in this appeal is made to the order dated 13.07.2021 recorded on W.P.No. 15298 of 2017. This appeal is by the respondents/ State Authorities.



2. Mrs.S.Mythreye Chandra, learned Special Government Pleader, has submitted that the writ petitioner could not have been granted stepping up of his pay vis-a-vis private respondent since the private respondent, though junior to the writ petitioner he was transferred from Needamangalam Unit to Valangaiman Unit and therefore no comparison could have been made. It is submitted that the direction by learned single Judge in favour of the writ petitioner to step up his pay vis-a-vis private respondent is against the policy of the State and therefore this appeal be entertained.

3. Having heard learned Special Government Pleader for the appellants and having considered the material on record, this Court finds as under:

3.1 The sole ground pressed into service before learned single Judge and before this Court in this appeal is the policy of the State that there cannot be any comparison of pay of two persons who are not working in the same unit.

3.2 The details as reflected in the counter at paragraph 5 indicates that the private respondent was transferred to the unit in which the writ petitioner was working some where in the year 2002 (10.06.2002) and right from the year 2002 upto the year 2014 the writ petitioner was getting more pay than the private respondent. Under this circumstance, though the learned Special Government Pleader for the appellants may be right in her contention with regard to the policy of the State, in the facts of this case, it will not help the appellants for the reasons that the transfer had already taken place in the year 2002 and from 2002 onwards the writ petitioner was getting higher pay than the person who was transferred. Therefore, on facts, that contention is not available to the appellants.

3.3 The said counter further goes to show that it is in the year 2015 pay anomaly cropped up. It is under this circumstance, the sole ground pressed into service by the State is rightly not accepted by learned single Judge and that view cannot be said to be an error much less any error apparent on the face of record, which may call for any interference. This appeal is therefore dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-V)

// True Copy //

Sub Assistant Registrar

raa/1



To

1.The Director of Elementary Education,
DPI Complex, College Road,
Nungambakkam, Chennai.

2.The District Elementary Educational Officer,
Tiruvarur, Tiruvarur District.

3.The Assistant Elementary Educational Officer,
Valangaiman, Tiruvarur District.

+1cc to the Government Pleader Sr.No.35310

W.A.No.1425 of 2022

SKM(CO)
RVM(23/06/2022)