



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.01.2022

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THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.264 of 2022

S.Karuppasamy

... Petitioner

Vs.

1.The District Educational Officer,
Office of the District Educational Officer,
Palani, Dindigul District.

2.The Block Educational Officer,
Office of the Block Educational Officer,
Thoppampatti,
Dindigul District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to equalize the petitioner's salary with that of his junior in the same post.

For Petitioner : Mr.K.Elangovan

For Respondents : Mr.P.T.Thiraviam, GA

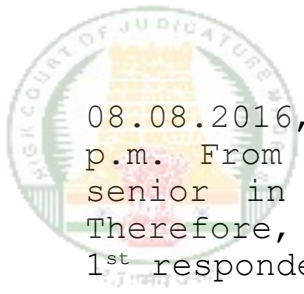
ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Writ of Mandamus, to direct the respondents to equalize the petitioner's salary with that of his junior in the same post.

2. Heard Mr.K.Elangovan, learned counsel appearing for the petitioner and Mr.P.T.Thiraviam, learned Government Advocate appearing for the respondents.

3. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4. According to the petitioner, he joined as a Secondary Grade Teacher in the year 1991 and promoted to the post of Head Master of Middle School on 31.05.2013 and presently, he is working as Head Master of Panchayat Union Middle School at Perumal Kovil Valasu, Thoppampatti Union, Dindigul District. The grievance of the petitioner is that his junior one Mrs.P.Mayilathal who joined as a Secondary Grade Teacher four years subsequent to him, i.e. in the year 1995 and promoted as Head Master of Middle school on



08.08.2016, is drawing higher pay than the petitioner at Rs.72,400/- p.m. From 08.08.2016 in the Level-17, while the petitioner being senior in the Level-17, is drawing salary only at Rs.68,300/-. Therefore, the petitioner made a representation on 7.7.2018 to the 1st respondent, which evoked no response. Hence the Writ Petition.

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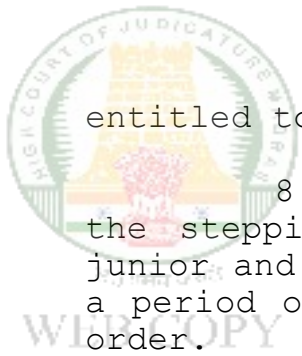
5. According to the learned counsel for the petitioner, the issue is no more res~integra and it was decided in W.P.(MD) No.742 of 2018, dated 07.02.2018, wherein, this Court has observed as under:

"4.The learned counsel appearing for the petitioner drew the attention of this Court to the proceedings dated 25.05.2017, issued by the District Elementary Educational Officer, Tuticorin, whereby, a similar pay anomaly in the case of one Mrs.Rani was set right. The petitioner-s case is identical. However, the first respondent declined to accept the request of the petitioner.

"5.The first respondent has proceeded on the footing that since the petitioner got transferred from Pudukottai to Kayathar Union, it is not possible to set right the pay anomaly. The reason assigned by the first respondent in the impugned order is un~sustainable in law. Even though the writ petitioner came to Kayathar Union by way of transfer and has to be placed at the bottom of the seniority list, the fact remains that the Shanthi got appointment as Secondary Grade Teacher at Kayatharu Union only later in point of time. Therefore, by no stretch of imagination the said Shanthi could have stolen a march over the petitioner. The order impugned in this writ petition is quashed. The respondents are directed to set right the pay anomaly and step~up the pay of the petitioner on par with said Shanthi. Such an order shall be issued by the respondents within a period of eight weeks."

6. The learned Government Advocate appearing for the respondents submits that the representation of the petitoiner is under consideration and they will take a decision very soon.

7. It is an admitted fact that the petitioner is a senior and one Mrs.P.Mayilathal is junior to the petitioner and he was granted higher pay than the petitioner. Whenever a junior is given higher pay scale than the senior, the anomaly shall be set right by stepping up the pay scale of the senior. This Court in W.P.(MD) No.742 of 2018 dated 07.02.2018 is clearly held that the seniority cannot be altered and the junior cannot get more pay than the senior and hence the pay scale of the senior should be stepped up. Since the petitioner being a senior is entitled to higher pay on par with



entitled to the relief as prayed for.

8. Accordingly, the respondents are directed to consider the stepping up of pay scale of the petitioner on par with his junior and pass orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

9. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Educational Officer,
Office of the District Educational Officer,
Palani, Dindigul District.

2.The Block Educational Officer,
Office of the Block Educational Officer,
Thoppampatti,
Dindigul District.

+1 CC to M/s.K.ELANGO VAN, Advocate (SR-845[F]
dated 07/01/2022)

+1 CC to M/s.SPL.GP (SR-973[F] dated 10/01/2022)

W.P (MD) No.264 of 2022
07.01.2022

IMS (CO)
KB(17.03.2022) 3P 5C