



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) Nos. 335 to 337 of 2019

WEB COPY

I.Sahayaselvi

... Petitioner
in W.P. (MD) No. 335 of 2019

K.Chitradevi

... Petitioner
in W.P. (MD) No. 336 of 2019

M.Latha

... Petitioner
in W.P. (MD) No. 337 of 2019

Vs.

1. The District Educational Officer,
Sivagangai,
Sivagangai District.

2. The Block Educational Officer,
Sivagangai,
Sivagangai District.

... Respondents in all W.Ps'

COMMON PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the first respondent in his proceedings in A.The.Mu.No.1968/A4/2018 dated 10.09.2018 and quash the same and consequently direct the respondents to re-fix the scale of pay of the petitioner on par with the petitioner's junior namely Umamaheswari at Rs.19,340+4500 as on 29.12.2015 besides directing them to pay the arrears of salary from 29.12.2015 to till date.

For Petitioner

In all W.Ps' : Mr.B.Prahalad Ravi

For Respondents

in all W.Ps' : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

C O M M O N O R D E R

The grievances of the writ petitioners are that their junior namely Umamaheswari is getting higher pay than the petitioners. Therefore, their pay is to be stepped up on par with their junior.

2. The learned counsel appearing for the petitioners made a submission that the comparison made by the petitioners has not been properly dealt with by the respondents. Thus, the matter is to be remanded back to the Authorities for re-consideration.



3. The question arises whether the remand is required or not. The remand of the matter cannot be made in a routine manner by the High Court. Remanding a case may be an easy way out for the High Court. However, the High Court is always expected to decide the matters on merits. Only on certain exceptional circumstances where the documents and evidences are to be adjudicated, it is to be remanded.

4. In the present case, the respondents have filed a detailed counter. The impugned order states that as per the instructions of the Director, the pay of the senior can be stepped up, only if they are working in the same Union. It is clarified that the rectification of pay anomaly between senior and junior is permissible, only if such senior and junior are working in the same union. In respect of the employees working in different Union, stepping up of pay cannot be considered.

5. The reason for such principle is that Union wise seniority is maintained for promotion and other purposes. For instance, if vacancies are available in one Union, the junior would not have been promoted in the Union before the senior. However, in the Union, where the senior is working, if there is no vacancy, the senior may not get an opportunity to get promotion. When the Union wise seniority is maintained for grant of promotion and other purposes, the question of stepping up of pay would not arise at all. For rectification of anomaly, both the senior and junior must be working in the same Union and in the event of any such error or higher pay to the junior, then alone, it can be stepped up.

6. If at all, the stepping up of pay is granted in respect of the employees / teachers working in other Union, such anomaly will be existing in many such Unions across the State of Tamil Nadu and that exactly is the reason why the Head of the Department issued instructions not to consider such cases. Even as per the fundamental rules, stepping up of pay can be considered, only if the senior and junior are in the same cadre. If the Union is not similar, the question of considering the stepping up of pay does not arise at all.

7. The learned counsel appearing for the petitioners made a submission that in similar circumstances, a Writ Petition was considered by this Court on early occasion.

8. This Court is of the considered opinion that the facts and circumstances in each case are to be considered by the Court independently. The principle is to be followed as per the Rules in force. The Courts are not expected to follow the similar order in a mechanical manner without verification of the facts and circumstances involved in a particular case. This being the dictum of the Supreme Court of India, the facts in every case are to be



considered with reference to the principles and passing an order in a routine manner by simply adopting the earlier order is not desirable which would lead to discourage of justice and cause unnecessarily burden to the state exchequer. Thus, the earlier order cited need not be followed in this case, as the petitioners and their junior are not working in the same union as per the impugned order. The impugned order also states that, such reason would be sufficient. The reasons stated are substantiated in paragraph No.7 of the counter, which reads as under:

7. It is submitted that under those circumstances, it is just and necessary to mention here that there are so many valid reasons for difference in salaries between the petitioner and Umamaheswari. At this point of time, it is necessary to give service particulars of the petitioner and Umamaheswari.

Sl. No.	SERVICE PARTICULARS	PETITIONER	UMAMAHESWARI
1.	Date of appointment	10.10.1996 (Thiruppathur Union)	12.01.1999 (Sivagangai Union)
2.	Transfer	From Thiruppathur to Sivagangai	No union transfer
3.	Selection Grade in the Secondary Grade Teacher Post	10.10.2006	13.01.2009
4.	Date of promotion as Primary School Headmaster	02.06.2010	11.03.2013
5.	G.O.Ms.No.23	3%+3%	Rs.750/-

9. When the reasons stated in the impugned order are substantiated by giving further particulars in the counter, it would be sufficient to decide the case on merits. Therefore, the contentions raised on behalf of the petitioners deserve no merits consideration and accordingly, these Writ Petitions stand dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

vji



To

1. The District Educational Officer,
Sivagangai,
Sivagangai District.

2. The Block Educational Officer,
Sivagangai,
Sivagangai District.

+3 CC to M/s.B.PRAHALAD RAVI, Advocate (SR-10082 TO 10084[F]
dated 04/03/2022)

+1 CC to M/s.SPL GP (SR-9777[F] dated 03/03/2022)

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MA (CO)

GC (22.03.2022) 4P 7C