



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.6285 of 2018
and
W.M.P. (MD) .No.6121 of 2018

S.K.Kannan

... Petitioner

Vs.

1.The Director of School Education,
Office of Director of School Education,
Chennai - 600 006.

2.The Joint Director (Higher Secondary),
Directorate of School Education,
Chennai - 600 006.

3.The Chief Educational Officer,
O/o.the Chief Educational Officer,
Virudhunagar District.

4.The Head Master,
Government Higher Secondary School,
Nadayaneri, Virudhunagar District.

... Respondents

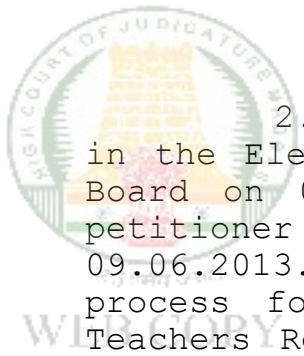
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.122/2018, dated 03.03.2018 on the file of the fourth Respondent and quash the same as illegal and consequently to direct the second respondent to pass orders on the claim of the petitioner to re-fix the pay scale of the petitioner by taking note of the last drawn salary in the previous post of B.T.Assistant (Science) within the time stipulated by this Court.

For Petitioner : Mr.S.Louis

For Respondents: Mr.V.Om Prakash,
Government Advocate (Civil Side).

ORDER

This Writ Petition has been filed to quash the impugned order dated 03.03.2018 with a consequential prayer to re-fix the pay scale of the petitioner by taking note of the last drawn salary in the previous post of B.T.Assistant Science.

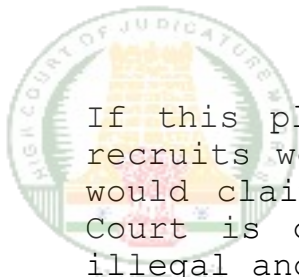


2. The petitioner was appointed as B.T. Assistant Science in the Elementary Education Department through Teacher Recruitment Board on 09.04.2007 in the Panchayat Union Middle School. The petitioner was serving in the said post from 09.04.2007 to 09.06.2013. The petitioner again participated in the recruitment process for P.G. Teachers in Higher Secondary Education by the Teachers Recruitment Board and was selected and appointed as P.G. Assistant on 10.06.2013 onwards. The petitioner relieved from the post of B.T. Assistant on 10.06.2013 and joined as P.G. Assistant on the very same day itself and there was no break in service and the Service Register is being used as the same. The grievance of the petitioner is that the same salary which was received for B.T. Assistant post ought to be fixed for the P.G. Assistant post also. According to the petitioner the last drawn salary in the post of B.T. Assistant should be granted to the petitioner. The petitioner submitted several representations and the fourth respondent sent a proposal to the third respondent which was forwarded to the second respondent vide proceedings dated 07.02.2008. But the third respondent has directed the fourth respondent to decide the issue vide proceedings dated 16.02.2018. Hence the impugned order dated 03.03.2018 came to be passed. Aggrieved over the said order, the petitioner has filed this present Writ Petition.

3. When the Writ Petition was taken up for hearing, the learned counsel for the petitioner circulated a fresh representation dated 31.12.2021. The contents of the representation are that since the Department has been re-organized under G.O.Ms.No.101 dated 18.05.2018, now the Chief Educational Officer is the appropriate appointing authority. Therefore, the Chief Educational Officer has to consider the representation who is the third respondent in this Writ Petition. Therefore, the petitioner prayed to issue Mandamus to Chief Educational Officer to consider the fresh representation and pass an order.

4. However, the claim of the petitioner is to fix the last drawn salary in the post of B.T. Assistant and the contention of the petitioner is that since the same Service Register is used for the P.G. Assistant post also, the petitioner is claiming to fix the salary as applicable to the B.T. Assistant.

5. This Court is of the considered view that the P.G. Assistant post is a fresh recruitment by Teacher Recruitment Board. The salary that is applicable to the P.G. Assistant post, should be as per the notification that is applicable to the petitioner in the recruitment process. Having accepted the rules applicable to the recruitment process including the salary applicable to the said post P.G. Assistant, now the petitioner cannot turn around and seek different salary. Having accepted the terms and conditions, with the knowledge that the salary would be less than the B.T. Assistant post, the petitioner is barred from claiming salary applicable to B.T. Assistant post, when he has accepted the P.G. Assistant post.



If this plea is accepted, then the persons of the same batch of recruits would claim discrimination. Then the other P.G. Assistants would claim discrimination, which would be endless. Therefore this Court is of the considered opinion the claim of the petition is illegal and hence Mandamus cannot be granted for such illegal claim.

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6. Hence, the Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

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Sub Assistant Registrar(CS)

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 Director of School Education,
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2.The Joint Director (Higher Secondary),
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4.The Head Master,
Government Higher Secondary School,
Nadayaneri, Virudhunagar District.

+1 CC to M/s.S.LOUIS, Advocate (SR-10819[F] dated 09/03/2022)
+1 CC to M/s.SPL.GP (SR-10963[F] dated 09/03/2022)

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