



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 10.01.2022

Pronounced on : 31.01.2022

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

W.P(MD) No.14606 of 2014

K. Thirumavalavan

:Petitioner

..VS..

1.The State of Tamil Nadu
rep. By The Secretary to Government,
(Pay Cell) Department, Secretariat,
Chennai - 600 009.

2. The Joint Director of School Education,
(Secondary Education),
Directorate of School Education,
College Road, Chennai.

3.The Director of School Education,
College Road,
Chennai - 600 006.

4.District Education Officer,
Tiruchirapalli.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of to issue a Writ of Mandamus directing the first respondent to pass an order bringing the petitioner's salary equal to that of Ramanathan, retired teacher who is his Junior in service and consequently, to direct the fourth respondent to implement the said direction in letter and spirit without fail with respect to re-fixation of pension and payment of arrears under relevant heads.

For Petitioner : Mr.S.K. Mani

For R1 to R4 : Mr. J.K. Jayaseelan
Government Advocate (Civil Side)



O R D E R

The Writ Petition has been filed for issuing a direction to the first respondent to pass an order bringing the petitioner's salary equal to that of Ramanathan, retired teacher who is his Junior in service and consequently, to direct the fourth respondent to implement the said direction in letter and spirit without fail with respect to re-fixation of pension and payment of arrears under relevant heads.

2. The petitioner was working as PG Assistant in Tamil in Kajamian Higher Secondary School, Tiruchirapalli. He joined as BT Assistant in Tamil on 01.11.1973 and on attaining superannuation retired on 31.10.1994. The contention of the petitioner is one Thiru. S. Ramanathan, joined service as B.T. Assistant (Tamil) in V.V. Higher Secondary School on 03.06.1974 and subsequently, transferred to E.R. Higher Secondary School at Tiruchirapalli in June 1995 and he retired from service in May 2011. The said Ramanathan was junior in service to the petitioner. But the allegation of the petitioner is that the said S. Ramanathan is drawing higher salary than the petitioner. Aggrieved over the petitioner filed Writ Petition in W.P.(MD).No.17207 of 1993 and this Court directed the respondents to consider the representation. Since the same was not considered in spite of pending contempt petition, the petitioner filed another Writ Petition in W.P.(MD).No. 34885 of 2002 and W.P. No. 61870 of 2002. This Court directed respondents to consider the inequality referred above and rectify the same by increasing the petitioner's salary so as to equalize the pay. Again the petitioner preferred another W.P(MD).No.33328 of 2003 and this Court vide order 30.04.2013 directed the first respondent to set aside the orders of the respondents dated 15.07.2002 and 20.05.2003 respectively and directed the first respondent to pass suitable orders upon the representation dated 23.04.2002. This Court on considering the age of the petitioner has directed the respondents to dispose of the representation at the earliest. The respondents vide order dated 30.08.2014 has passed an order stating the petitioner and the Junior are working in different schools and they have migrated to Thiruchirappalli on a later date. The contention of the petitioner that the two different educational institutions were separately running the institutions, the concept of each school and the salary of the employees are different is wrong and the reply of the respondents according to the petitioner is contemptuous. In support of his contention the petitioner has referred to certain G.Os and has claimed the relief.

3. The respondents have filed counter narrating the previous history and has stated the petitioner and the junior are working in different schools and the same cannot be compared.

4. Heard the learned counsel appearing on either side and perused the materials available on record.



5. The petitioner has filed two additional typed set of papers showing the variation and the calculation memo to a Junior and the Senior. The petitioner and the junior were receiving the same amount until the petitioner received incentive increment for higher qualification. It is seen the comparative chart, the petitioner was receiving Rs.300/- on 01.11.1973 and the junior was receiving Rs.300 on 03.06.1974. On 14.05.1977 the petitioner had received **Rs.30/-** as incentive increment for acquiring higher qualification of M.A. Degree.

6. After the 3rd pay commission revision, as on 01.10.1981 the petitioner had received Rs.665/- and the junior received Rs.615/-. Then the petitioner had acquired B.Ed. and has received incentive increment of **Rs.50/-**. On 01.11.1983 the petitioner was granted selection grade and the junior received selection grade on 03.06.1984.

7. After 4th pay commission, on 01.10.1985 the petitioner was receiving Rs.1360/- and on 01.04.1985 the junior was receiving Rs.1225/-. On 28.01.1987 the junior had received incentive increment of **Rs.90/-** for acquiring higher qualification of B.Ed.

8. After 5th pay commission the junior received incentive increment of **Rs.120/-** on 08.01.1989 for acquiring M.A., Degree. Therefore, the discrepancies arise for the additional qualification of the junior and the amount of incentive increment was granted as prevailed during that period.

9. Every 10 years there will be pay commission revision and for implementing the said pay commission revision there will be some G.O.s and clarifications. Admittedly, the petitioner has acquired M.A., in **1977** and received **Rs.30/-** as increment and acquired B.Ed. in **1982** and received **Rs.50/-** as increment. The junior has acquired B.Ed. in **1987** and received **Rs.90/-** as increment and acquired M.A. in **1989** and received **Rs.120/-** as increment. From this it would be clear that the teachers had received the amount of incentive increments that was prevailing during that academic year and the same can never be compared. In other words if any candidate acquired higher qualification during the year 1977 the amount is Rs.30/- and if any candidate had acquired higher qualification during the year 1989 then the amount is Rs.120/-. Hence the discrepancy that has arisen can never be challenged.

10. This Court is of the considered opinion that increase of incentive increment from Rs.30/- to Rs.50/-, then to Rs.90/- and then to Rs.120/- over a period of 10 years cannot be compared at all.

<https://hcservices.ecourts.gov.in/hcservices> The petitioner has relied on G.O.Ms.No.320, dated



02.04.1990 and the said G.O was passed implementing the pay commission revision in the year 1985, wherein it is stated if there is discrepancies as on 03.07.1984, the same can be considered by the authorities. In G.O. Ms. No. 859 Finance (Pay Cell) Department dated 11.09.1986 the issue has been clarified. Under clause 2 it is stated that the pay of the senior may be refixed on par with the pay of his junior in the certain situations, wherein it is stated if the pay difference arises due to increase in annual increment in the revised scale, if the pay is fixed under Rule4(2)(i) with effect from a date subsequent to 01.10.1984 or refixed under Rule4(2)(ii) under Tamil Nadu Revised Scales of Pay Rules, 1985 at a stage higher than that of the revised pay of the senior, the junior who opt to come under the revised scales of pay from a date subsequent to 01.10.1984 and happens to get more pay than the senior by way of fitment benefit. In the G.O. 859 it has also been stated under clause 3 that there shall be no refixation of the pay of the senior except in the circumstances stated in clause 2. Under clause 4 sub clause (i) it has been specifically stated that the instances of junior drawing more pay than the senior shall not be considered anomalous and one such incident is "junior getting advance increment for possession or acquiring higher qualifications while the senior not getting it because he is not so qualified". Based on this clause this Court is of the considered opinion that the incentive increment sanctioned in the year 1977 for the petitioner and increased incentive granted in the year 1989 for the junior cannot be compared. The alleged pay anomaly / discrepancies is on misconception. In other words, the incentive increment fixed for that particular year cannot be compared with earlier years. The salary and the incentive increment keeps increasing based on the increase in the money value and inflation, therefore the claim of the petitioner is erroneous.

12. This Court is of the considered opinion that the petitioner is not entitled since the petitioner cannot compare the incentive increment sanctioned in the year 1977 and increased incentive granted in the year 1989 that too meagre amount of difference as Rs.60/-. The petitioner is aged about 78 years at the time of filing the Writ Petition and he is still fighting for Rs.60/-. If this kind of writ petitions are entertained there will not be any end to the litigations and the writ petition is liable to be dismissed.

13. Accordingly, the Writ Petition is dismissed. No costs.
Sd/-

Assistant Registrar(AE)

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/ /2022

Sub Assistant Registrar(CS)



1. The Secretary to Government,
(Pay Cell) Department, Secretariat,
Chennai - 600 009.

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(Secondary Education),
Directorate of School Education,
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College Road,
Chennai - 600 006.

4. District Education Officer,
Tiruchirapalli.

Order made in
W.P(MD) No.14606 of 2014
31.01.2022

TR(17.02.2022) 5P 5C