



W.P.No.16097 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.16097 of 2013

P.M.Hameed

... Petitioner

Vs.

- 1.The District Elementary Educational Officer,
Coonoor-2, The Nilgiris District
- 2.The Assistant Elementary Educational Officer,
Gudalur, The Nilgiris District

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the first respondent in Na.Ka.No.197/A4/2013 dated 08.03.2013 and quash the same and direct the first respondent to fix the petitioner's pay on par with his junior Mr.Marudhaiyan with effect from 1.1.1996 and grant him all consequential benefits.

For Petitioner : Mr.P.Rajendran

For Respondents : Dr.T.Seenivasan,
Special Government Pleader



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ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 08.03.2013 thereby refused to fix the petitioner's salary on par with his junior one, Marudhaiyan with effect from 01.01.1996.

2. Heard, the learned counsel appearing on either side.

3. The petitioner was appointed as Secondary Grade Teacher on 17.10.1973 and he joined duty on 24.10.1973 at the Panchayat Union Middle School, Cherambadi. He was Malayalam medium teacher. His services were regularised from 01.04.1974. One, P.Marudhaiyan was appointed as Secondary Grade Teacher and his services were regularised with effect from 01.04.1974. Thereafter, he was promoted as Headmaster in the year 1984 by proceedings dated 16.11.1984. At that time, separate seniority lists were maintained for the Tamil medium and Malayalam medium teachers. Only Tamil medium teachers were promoted as Headmasters in bilingual schools. Though the petitioner was senior to the said Marudhaiyan, the petitioner was not promoted to the post of



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Headmaster and as such, he submitted his representation. In the meantime, four Malayalam medium teachers approached Tamilnadu Administrative Tribunal in OA.No.1953 of 1989 for direction to maintain common seniority list for both Tamil and Malayalam medium teachers. The Tribunal allowed their application by an order dated 09.10.1990 and directed to maintain separate seniority lists for Tamil and Malayalam medium teachers and promoting only Tamil medium teachers as Headmasters in bilingual schools was discriminatory and violative of Articles 14 and 16 of Constitution of India. The Tribunal also set aside the promotion given to their juniors.

4. In view of the order passed by the Tribunal, the petitioner also made representation and filed OA.No.4190 of 1992 before the Tamilnadu Administrative Tribunal, Chennai. However, while pending the application, the petitioner was promoted to the post of Primary School Headmaster on 14.07.1999. The said original application was dismissed and aggrieved by the same, the petitioner preferred writ petition before this Court in WP.No.21732 of 2005. This court allowed the writ petition



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by an order dated 03.02.2009 and directed the respondents to fix his salary on par with his junior. However, the respondents failed to comply with the order and as such, the petitioner was constrained to file contempt petition in Cont.P.No.1504 of 2010. Only thereafter, his salary was fixed on par with his junior with effect from 01.06.1988 and granted notional increment and pension benefits. However, the Division Bench of this Court directed the respondents to grant arrears of pay will monetary benefits. By an order dated 22.03.2011, the first respondent fixed his scale at Rs.1,760/- with effect from 01.06.1988. However, it was made only till 01.04.1995. Their salary was fixed at Rs.2,180/- as on 01.04.1995. There was pay anomaly from 01.01.1996 between the petitioner and the said Marudhaiyan. In the meanwhile, the petitioner attained age of superannuation in the year 2006 and he retired from service. Again, the petitioner made several representations and the same was not considered and as such, the petitioner filed another writ petition before this Court in WP.No.33802 of 2012. This Court by order dated 18.12.2012 directed the petitioner to submit a representation and the same may be considered by the first respondent within a period of two



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weeks. However, by the impugned order dated 08.03.2013, again the request made by the petitioner was rejected.

5. On perusal of counter filed by the first respondent, revealed that the petitioner was working as Secondary Grade Teacher from 24.10.1973. Therefore, his salary was fixed in Selection Grade Secondary Grade scale of pay. That apart the petitioner was also promoted as Primary School Headmaster as per the seniority list only after 14.07.1999. However, the order passed by this Court was not complied with and therefore, this Court directed the petitioner to submit fresh representation in WP.No.33802 of 2012. In fact, the petitioner is senior to the said Marudhaiyan. Whereas, the said Marudhaiyan was drawing the pay salary of Rs.8,275/- as on 01.01.1996. However, the petitioner's salary was fixed at Rs.6,900/-. Therefore, the petitioner is entitled for his scale of pay on par with his junior Marudhaiyan with effect from 01.01.1996.

6. In view of the above, the impugned order dated 08.03.2013 is set aside and this writ petition is allowed. The first respondent is



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directed to fix the petitioner's salary on par with his junior Marudhaiyan with effect from 01.01.1996 and disburse all the arrears to the petitioner within a period of twelve weeks from the date of receipt of copy of this order. There shall be no order as to costs.

07.08.2023

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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- 1.The District Elementary Educational Officer,
Coonoor-2, The Nilgiris District
- 2.The Assistant Elementary Educational Officer,
Gudalur, The Nilgiris District
3. The Government Advocate,
High Court, Madras.

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