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Writ Appeal No.2080 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 5/4/2023

C O R A M

THE Hon'ble Mr.Justice D.KRISHNAKUMAR

a n d

THE HONBLE Ms.Justice K.GOVINDARAJAN THILAKAVADI

**Writ Appeal No.2080 of 2010
and M.P.No.1 of 2010**

1. The State of Tamil Nadu
rep. By its Secretary to Government
School Education Department
Secretariat
Chennai 600 009.
2. The Director of School Education
Chennai 600 006.
3. The District Educational Officer
Coonoor 2
The Nilgris District. ... Appellants

Vs

1. K. Peter Deva Prasad
2. The Correspondent
CSI Higher Secondary School
Kotagiri
The Nilgris District. ... Respondents

PRAYER : Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 26/4/2010 made in W.P.No.22737 of 2009.



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Writ Appeal No.2080 of 2010

For appellant ... Mr.L.A.M.Hasan Fizal
Additional Government Pleader
for Mr.D.Raja

For respondents ... Mr.S.Mani
for R.1

No appearance
for R.2

J U D G M E N T

(Judgment of the Court was delivered by D.KRISHNAKUMAR, J)

This Writ Appeal has been filed against the order, dated 26/4/2010,
passed in W.P.No.22737 of 2009.

2. Brief facts which are necessary for the disposal of this writ appeal
are as follows:-

The petitioner had joined as Secondary Grade Assistant, on
3/10/1978, in CSI Higher Secondary School and on 1/10/1986, he was
appointed as Headmaster, under the same Management. Till 1/6/1988, the
post of Secondary Grade Teacher and Headmaster of Elementary School
carried identical scale of pay and there were inter-transferable posts. The V
Pay Commission recommended the post of Headmaster of Elementary



School as promotional post, giving higher scale of pay from 1/6/1988.

The first respondent/writ petitioner was awarded selection grade in the cadre of Headmaster of Elementary School. Thereafter, first respondent/writ petitioner was promoted as Headmaster of Middle School, on 7/6/1988. The second respondent School was upgraded as Higher Secondary School, on 1/6/1992 and on the very same date, petitioner was absorbed as B.T.Assistant. As far as the post of B.T.Assistant is concerned, it is the feeder category to the post of Headmaster of Middle School. The scale of pay for the post of B.T.Assistant in V Pay Commission was Rs.1400-50-2300 and in VI Pay Commission, it was fixed as Rs.5000-150-8000. The ordinary Grade for the post of Headmaster of Middle School was Rs.1640 in V Pay Commission and subsequently, it was fixed as Rs.5900-200-9000, as per the recommendation of VI Pay Commission.

3. At the time of upgradation of the School, i.e., on 1/6/1992, no post of Headmaster of Middle School was available and hence, the writ petitioner had to be absorbed as B.T.Assistant. At that time, Government has issued G.O.Ms.No.210, Personnel and Administrative Reforms (Per.S) Department, dated 11/3/1987, and as per the said G.O., petitioner's scale of pay ought to have been fixed only in the cadre of Selection Grade Headmaster of Middle



School. However, the writ petitioner was given only the scale of pay applicable to the post of B.T.Assistant. Hence, made a representation to the District Educational Officer, Coonoor. Since the same has not been considered, the first respondent has filed W.P.No.24241 of 2000 and vide, order, dated 31/7/2006, a learned Single Judge of this Court had directed the second respondent therein, to pass orders on the representation given by the writ petitioner.

4. Pursuant to the order passed, the second respondent therein, by order, dated 8/12/2006, rejected the claim of the first respondent. Being aggrieved, the first respondent has filed W.P.No.22737 of 2009 has been filed. Vide, order, dated 26/4/2010, a learned Single Judge of this Court had allowed the writ petition and further, directed the respondents 1 to 3 therein, to give consequential benefits to the petitioner, within a period of eight weeks from the date of the said order. Being aggrieved, the appellants have come before this Court.

5. Heard Mr.L.S.M.Hasan Fizal, Additional Government Pleader for the appellants and Mr.S.Mani, learned counsel for the first respondent.



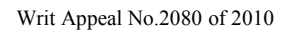
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6. There is no representation on behalf of the second respondent.

7. The learned Additional Government Pleader appearing for the appellants submitted that the first respondent was working only under the private aided School under Corporate Management and any option to be exercised for being absorbed in any other School could only be offered by the other private management and no financial liability could be fixed on the official respondents.

8. In G.O.1529 dated 13/11/1990, it is clearly stated that when a Middle School is upgraded into High School, the person who is working in the School as Middle School Headmaster should be absorbed as B.T.Assistant in the Upgraded High School. Based on this G.O., the first respondent/writ petitioner was absorbed as B.T.Assistant in the upgraded High School.

9. The learned counsel appearing for the first respondent submitted that in an identical case, this Court has given a direction to fix higher scale of pay on par with the post of Middle School Headmaster. If the writ petitioner could not be continued as a Middle School Headmaster, the



12. Basically, C.S.I Diocese runs a number of Higher Secondary Schools, High Schools, Middle Schools and Primary Schools in Salem, Erode, Coimbatore and Nilgiris District. The Bishop of C.S.I.Diocese is the Corporate Manager of all these Schools. Hence, the Management of C.S.I



can appoint, transfer and promote any person in any of the Schools under their Management. While upgrading C.S.I Middle School, Kotagiri into High School, C.S.I Management could transfer the writ petitioner to some other Middle Schools under the same Management, where he could draw the scale of pay of Middle School Headmaster without losing any monetary benefit.

13. When a School is upgraded as High School, then automatically, the post of Middle School Headmaster gets vanished. In view of the above, the first respondent/writ petitioner is not eligible for awarding Selection Grade, as per G.O.Ms.No.210, Personnel & Administrative Reforms Department, dated 11/3/1987. This Court finds much force in the contention made by the learned counsel for the appellants and therefore, the impugned order of the Writ Court warrants interference and consequently, the impugned order passed by the Writ Court is liable to be set aside.

14. In the result, this Writ Appeal is allowed and the order, dated 26/4/2010 made in W.P.No.22737 of 2009, is set aside. No costs. Consequently, connected miscellaneous petition is closed.

(D.K.K.,J) (K.G.T.,J)
5th April, 2023

mvs/jvm



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D.KRISHNAKUMAR,J

A N D

K.GOVINDARAJAN THILAKAVADI,J

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Index: Yes/No

Neutral Citation: Yes/No

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