



WEB COPY



W.P.No.6076 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.6076 of 2020

M.Manimegalai (F/65 years)
W/o.K.Gunasekaran
165, M.I.G.Kavuery Vidhi, TNHP
Velisenmandalam
Cuddalore 607 001.

... Petitioner

/Vs/

1.The Joint Director of School
Education (Higher Secondary)
College Road, Chennai 600 006.

2.The Principal Accountant General (A and E)
361, Anna Salai, Chennai 18.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the Respondents to grant the benefit of one increment as per the Revised Scales of Pay Rules, 2009 and that of the Government Letter No.48211/Pay Cell/2012-1 dated 09.10.2012 and to consequently revise and re-fix the pension and other pensionary benefits forthwith thereto.



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For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.T.Chezhian (for R1)
Government Advocate

Ms.Hema (for R2)
Muralikrishnan

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus directing the Respondents to grant the benefit of one increment as per the Revised Scales of Pay Rules, 2009 and that of the Government Letter No.48211/Pay Cell/2012-1 dated 09.10.2012 and to consequently revise and re-fix the pension and other pensionary benefits forthwith thereto.

2.Learned counsel for the Petitioner submitted that the Petitioner was working as Superintendent in the first Respondent's Department and was appointed as PG Teacher on 12.01.2012 and in the same post she retired from service on superannuation on 31.05.2013. The Petitioner's claim is that at the time of posting her as PG Assistant from the post the Superintendent, she is eligible to one increment as per the Government letter No.48211/Pay Cell/2012-1 of Finance (Pay Cell) Department, dated



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09.10.2012. The above rule clarifies that insofar as fixation of pay of employees on promotion to a higher post carrying identical scales of pay and grade pay, the person concerned shall be entitled for the benefit of one increment equal to 3% of the sum of pay in the Pay Band and existing Grade Pay shall be computed and rounded off to the next multiple of ten. Since the Petitioner has not been given with the above increment, this Writ Petition has been filed seeking direction to the Respondents.

3.Learned Government Advocate submitted that transfer from non-teaching stream to teaching stream is only a transfer of services and it cannot be considered as promotion, even though the person concerned has identical pay scale and hence the learned Government Advocate further submitted that the Petitioner is not entitled to 3% increment as claimed by her.

4.Heard the learned counsel appearing on either sides and perused the available records.



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5.The fact that the Petitioner is a non teaching employee before she was appointed as a PG Assistant. The said fact is not denied by the Respondent. The contention of the Petitioner is that she was drawing identical scale of pay while she was on the non-teaching side and hence on her appointment as PG Assistant she should be given with 3% incremental benefit.

6.The order of appointment of the Petitioner dated 12.01.2012 shows that she has been transferred as PG Assistant from her erstwhile Ministerial Service. Since Ministerial stream and teaching stream are two different channels, person serving in one stream cannot be posted in the other stream, unless it is through selection and appointment by transfer of service. If the Petitioner did not compete in the selection and get herself selected as a PG Assistant, her non teaching stream would have never merged with the teaching stream on promotion at any point of time. In other words, there is no promotion to the post of PG Assistant from any of the post held by the person in the non-teaching stream.



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7.Hence, the Petitioner cannot claim that her transfer of service from non teaching stream to teaching stream is promotion and that she is eligible to get one advance increment. It is obviously because her appointment as P.G.Assistant cannot be construed as promotion on transfer, but it is just an appointment on transfer.

8.In view of the above said reasons, this Writ Petition is dismissed.

No costs.

06.10.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

sai

To

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R.N.MANJULA, J.

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