



W.P.No.16274 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	31.10.2023
Pronounced on	10.11.2023

CORAM:

THE HON'BLE Ms.JUSTICE **R.N.MANJULA**

W.P.No.16274 of 2020

K.Samson Elangovan

... Petitioner

Vs.

1.The Director of School Education,
DPI Campus, College Road,
Chennai 600 006.

2. The Chief Educational Officer,
Tiruvallur District,
Tiruvallur.

3.The District Educational Officer,
Tiruvallur Education District,
Tiruvallur.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 3rd respondent in O.Mu.No.7543/A6/2018 dated 10.12.2019 and quash the same and consequently directing the respondents to pass orders for granting



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stepping up of pay for the petitioner on par with his junior Mrs.Shyamala Chandrakantham in the post of P.G. Assistant with all consequential and other attendant benefits including the arrears of salary within a time frame to be fixed by this Court.

For Petitioner : Mr.A.Maheshath for Mr.S.Nedunchezhi

For Respondents : Mrs.P.Rajarajeswari, Govt. Advocate

ORDER

This Writ Petition has been filed seeking issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 3rd respondent in O.Mu.No.7543/A6/2018 dated 10.12.2019 and quash the same and consequently directing the respondents to pass orders for granting stepping up of pay for the petitioner on par with his junior Mrs.Shyamala Chandrakantham in the post of P.G. Assistant with all consequential and other attendant benefits including the arrears of salary within a time frame to be fixed by this Court.

2. Heard Mr.A.Maheshath for Mr.S.Nedunchezhi learned Counsel



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for the petitioner and Mrs.P.Rajarajeswari, learned Govt. Advocate for the respondents.

3. The brief facts of the case are as follows:

The petitioner was appointed as a B.T. Assistant on 01.12.1997 who was sanctioned with incentive increment for acquiring M.Ed. Degree qualification in the year 1999. He was also given with another incentive by acquiring M.Com Degree in the year 2005. He was promoted as P.G.Assistant on 18.08.2006 and he was promoted as High School Headmaster on 04.07.2012.

3.1.One Shyamala Chandrakantham was appointed as B.T. Assistant on 24.12.1998 and she was junior to the petitioner. She was given with incentive increment for acquiring M.Sc. Degree in the year 2001 and she was promoted as P.G. Assistant on 01.10.2009. At that point of time she was also sanctioned with two sets of incentives for having higher qualifications based on her M.Phil degree. So, there is a pay anomaly between the petitioner and his junior Shyamala Chandrakantham. Hence the petitioner has filed this petition to step up his pay on par with his junior.



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4. In the impugned order dated 10.12.2019, the 2nd respondent has stated that the pay anomaly was due to the fact that the junior has got M.Phil research degree and the senior has got M.Ed professional degree and hence the case of the petitioner does not qualify under FR 22 B (1) & (2).

5. For the sake of clarity FR 22 B (2) (i) and (ii) are extracted as under:

“22-B. Notwithstanding anything contained in these rules, where a Government servant holding a post in a substantive or officiating capacity, is promoted or appointed in a substantive or officiating capacity, to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the timescale of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post by one increment, at the stage at which such pay has accrued. If the monetary benefit after such fixation falls short of five per cent of the pay drawn in the lower post, his pay in higher post shall be so fixed, allowing a minimum increase of five per cent of the pay drawn in the lower post. Where the pay drawn in the lower post on the date of promotion or appointment plus five per cent of the pay drawn in the lower post is a stage in the time-scale of pay of the higher post, the pay shall be fixed at such stage in the time-scale of pay of the higher post. Where the pay drawn in the lower post on the date of promotion or appointment



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plus five per cent of the pay drawn in the lower post exceeds the amount arrived at for fixation of pay in the higher post under this rule but where there is no corresponding stage in the time-scale of pay of the higher post, the pay shall be fixed at the next higher stage in the time-scale of pay of the higher post.

...

...

(2) In case where both the senior and junior are drawing the same rate of pay in the lower post, the senior who was promoted to the higher post before drawing the next increment in the lower post would be drawing less pay than his junior; who was promoted to the higher post after drawing the next increment in the lower post. In such cases, the pay of the senior officer in the higher post should be stepped up to a figure equal to the pay fixed for the junior officer in that higher post and the stepping up should be done with effect from the date of promotion or appointment of the junior and also subject to the following conditions:—

- (i) Both the junior and senior officers should belong to the same cadre and the post in which they have been promoted or appointed should be identical and in the same cadre;*
- (ii) The scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical;”*

6. The above rule does not differentiate the higher qualification.

So it is not known on what basis the 2nd respondent has made a difference between FR 22 (B) 2 (i) &(ii). In fact the file conversation between the



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2nd respondent and the director of school education would only show that the recommendation has been given to step up the pay of the petitioner as there is an anomaly. In fact in the letter dated --.07.2019 in O.Mu.No.7543/A6/2019 it has been stated that the reason for pay anomaly is due to the fact that the junior had got the incentive benefit for her higher qualification in M.Phil degree after she got promoted as PG Assistant.

7. So far as the petitioner is concerned she has got both incentives for both of her higher qualifications before she got promoted as P.G.Assistant. If the anomaly continues even after the next revision of pay as per the recommendations of the next pay commission, then the same shall be rectified by invoking special government orders passed in this regard.

8. In the letter dated --/07/2019 it has been specifically stated that the anomaly can be rectified by invoking G.O.Ms.234 Finance (Pay Cell) department dated 01.06.2009. However, the 3rd respondent has omitted to do the said exercise.

Hence, this Writ Petition is **allowed** and the 2nd respondent is



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directed to consider the representation of the petitioner in the light of the above G.O.Ms.234 finance (Pay Cell) department dated 01.06.2009 and grant the benefit of stepping up of pay if the petitioner is found to be eligible under the said G.O. or any other rules applicable in this regard and pass and order within a period of six weeks from the date of receipt of copy of this order. No costs.

10.11.2023

Index : Yes/No
Internet : Yes/No
Speaking /Non-speaking
Neutral Citation : Yes/No
jrs



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R.N.MANJULA, J.

jrs

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