



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2023

CORAM

THE HON'BLE Mr. JUSTICE **C. V. KARTHIKEYAN**

W.P.No.19761 of 2019

A. Kannan

.. Petitioner

Vs.

1.The Chief Educational Officer,
Thiruvannamalai District,
Thiruvannamalai.

2.The District Educational Officer,
Thiruvannamalai,
Thiruvannamalai District.

.. Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to Aa.Thi.Mu.No.819/A1/2019 dated 23.05.2018 and to quash the same and consequently permit the petitioner to resubmit their representation dated 12.02.2018 and further issue a direction to the 1st respondent to reconsider the claim of the petitioner's representation dated 12.02.2018, in the light of judgment of W.P.No.3698 of 2007 and batch, within a time frame.



For Petitioner .. Mr. P. Murali
For Respondents .. Mr. U. Bharanidharan, AGP

ORDER

This Writ Petition has been filed in the nature of Certiorarified Mandamus seeking records relating to Aa.Thi.Mu.No.819/A1/2018 dated 23.05.2018 and to quash the same and permit the petitioner to represent the representation dated 12.02.2018 and issue a direction to the 1st respondent to reconsider the claim of the representation of the petitioner dated 12.02.2018.

2. The petitioner was appointed as Secondary Grade Teacher on 05.01.1990 in Thandarampattu Block, Panchayat Union Middle School, Rayandapuram, Thiruvannamalai District. He was then transferred to Thiruvannamalai Union. He was granted Selection Grade after 10 years. He was then promoted as Primary School Headmaster on 20.09.2004. Thereafter, on 27.11.2006 he was promoted as B.T Teacher and then on 12.10.2009 he was promoted as B.T Headmaster in Panchayat Union Middle School, Kadagam. He was then transferred as Block Educational Officer at Polur Block, Thiruvannamalai District.



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3. It is claimed that a junior to the petitioner V. Saravanan was initially appointed as Secondary Grade Teacher on 07.12.1990 and as Primary School Headmaster on 01.09.2005 and promoted as BT Headmaster in Panchayat Union Middle School, Valayampattu, Thiruvannmalai Block, who was drawing a higher pay of Rs.9,300-34,800+GP 4700-28040. The petitioner though senior was drawing the pay scale of Rs.9,300-34,800+GP 4700-26410. Seeking to set right the anomaly in the pay, the petitioner had given a representation on 12.02.2018, the order passed in the said representation is being impugned in the present writ petition.

4. In the order passed, which is now impugned, it had been stated that the petitioner and his junior V. Saravanan were functioning in two different unions and therefore, there cannot be any comparison between two teachers of two different unions and therefore, the representation was rejected.

5. In the counter affidavit filed on behalf of the respondents, it had been stated that the pay anomaly had arisen only because the petitioner



and his junior had not been promoted from the same cadre. It had been stated that the Fundamental Rule 22B cannot be invoked to the advantage of the petitioner herein particularly because, the petitioner and the junior belonged to two different panchayat unions. It is stated that the disparity in pay cannot be rectified in such case. Both the petitioner and the junior working in two different panchayat unions. It is stated that the pay anomaly had arisen consequent to the fact that the junior had been granted increment when he completed his B.Ed., and Post Graduate degree, which was subsequent to the petitioner herein. It was therefore stated that the pay anomaly could not be rectified and the request of the petitioner cannot be granted.

6. Heard both sides.

7. The comparative chart between the petitioner and the junior V. Saravanan had been forwarded by the learned Additional Government Pleader. It is seen that the petitioner was originally appointed as Secondary Grade Teacher on 05.01.1990. His Junior was appointed on 07.12.1990. The petitioner was promoted as Primary School Headmaster on 20.09.2004



while the Junior was promoted on 01.09.2005. The petitioner had been granted increment for completing his B.Ed., on 15.05.2000 on which date, the basic salary he was drawing was Rs.5,600.75/-. On that particular date, the basic pay of the junior was Rs.5,125/-. The petitioner then completed his M.A degree and for that an increment was given on 29.05.2007 and on that particular date, his basic was Rs.19,250/-. On the same date, the basic of his junior was Rs.16,870/-. The junior had completed his M.A., B.Ed., and had been granted increment on 21.06.2016 and by grant of such increment his scale was increased to Rs.69,500/-, whereas the petitioner scale was Rs.68,300/-. This was the reason for the difference in pay between the petitioner and his junior.

8. The petitioner had completed his B.Ed., and his M.A., much earlier when the basic pay was less and therefore, the increment was also less. However, the junior completed his B.Ed., and M.A., at later stage. By that passage of time, the basic pay had increased, leading to increase in both the incentive and increment granted for completion of M.A., B.Ed. That has been the basic reason for pay anomaly.



9. With respect to the contention of the respondents that the petitioner and his junior were working in different unions, that would be an issue with respect to seniority, but the pay of the petitioner should be protected and should not be lesser than that of the junior.

10. In this connection, the learned counsel for the petitioner had forwarded a judgment with respect to similar issue, which had come up for consideration before me in ***W.P.No.2672 of 2019, K. Malathi Vs. The District Educational Officer, Thiruvannamalai District and others*** dated **21.07.2023**, it had been held as follows:

“8. This Court is of the considered view that the anomaly in pay had occurred due to the implementation of the recommendations of the VII pay commission and the petitioner is entitled for stepping up of pay. The contention raised by learned Government Advocate for the respondents that stepping up of pay will not be applicable to those who were transferred from one unit to another unit is rejected since this is a case of drawing of pay and equalizing the pay scale to that of her junior. The transfer from one union to another union would affect seniority but



it would not be applicable so far as fixation of pay is concerned.

9. *The writ petition stands allowed. A mandamus is issued to the respondents to issue necessary proceedings within a period of four months from the date of receipt of a copy of this order. If the respondents require any clarification, they may issue notice to the petitioner herein and seek necessary clarification and but at any rate pass orders within the period of four months. No costs. Connected miscellaneous petition is closed.”*

11. In view of the observations above, the same ratio applies and the impugned order is set aside. The petition may resubmit his representation dated 12.02.2018 within a period of two weeks from the date of receipt of a copy of this order and the respondents may issue necessary proceedings within a period of six further weeks. If they require any clarification, they may issue notice to the petitioner, but at any rate, orders should be passed within a period of six weeks from the date of receipt of the representation from the petitioner.



12. With the above observations, this Writ Petition stands allowed.

No costs.

17.08.2023

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
Speaking order: Yes/No
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To

1. The Chief Educational Officer,
Thiruvannamalai District,
Thiruvannamalai.
2. The District Educational Officer,
Thiruvannamalai,
Thiruvannamalai District.



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C.V.KARTHIKEYAN,J.

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