



W.P.Nos.17891 & 17892 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON	24.04.2023
ORDERS PRONOUNCED ON	01.06.2023

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. Nos.17891 and 17892 of 2014

P.Varadarajan

..Petitioner in WP.17891/2014

C.Krishnasamy

..Petitioner in WP.17892/2014

VS

1.The Director of Elementary Education

College Road, Chennai-600 006

2.The District Elementary Educational Officer

Tiruppur District, Tiruppur.

3.The Assistant Elementary Educational Officer

Moolanur Panchayat Union, Moolanur

Tiruppur District.

..Respondents in both the Writ Petitions.

Prayer in both WPs:- Writ petitions filed under Article 226 of Constitution of India, praying to issue a writ of certiorarified mandamus to call for the records of the 2nd respondent issued in proceedings No.A.T.M.780/A4/2013 dated 27.06.2013 and quash the same and issue a consequential direction to the



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respondents to step up the pay of the petitioner to the level of his junior, namely S.Sivamuthu and fix the petitioner's pay at Rs.25710/- as on 05.03.2012 and the pay the arrears of pay consequently to the petitioner.

For petitioners : Mr.R.Saseetharan

For respondents : Mr.M.Rajendran, Addl. Govt.Pleader

COMMON ORDER

The above writ petitions are filed by the petitioners, praying to quash the proceedings of the 2nd respondent-District Elementary Educational Officer dated 27.06.2013, whereby the 2nd respondent pointed out that the petitioners' pay cannot be stepped up to the level of their junior who is drawing more pay because the petitioners' and the junior are not holding equivalent post and not in the same time scale of pay.

2. It is averred in the writ petitions that the petitioners are working as Middle School Headmasters. They are senior to S.Sivamuthu and their pay was higher than S.Sivamuthu till 05.03.2012 on every pay fixation. However, on 05.03.2012, the junior S.Sivamuthu was granted incentive increments for M.A. B.Ed., and hence, his pay was fixed at Rs.25,710/-, however, the petitioner's



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were already granted incentive increment for the possession of M.A. B.Ed., and thier pay was fixed at Rs.24,350/-. The petitioners' submission is that whenever junior pay is fixed at higher level, senior's pay has to be stepped up to the level of junior. It is submitted that the petitioners were granted at the lower rate of incentive increment in the pre-revised scale and therefore, the anomaly has to be rectified. The petitioners in this regard preferred representation and sought their claim to rectify the pay anomaly.

3. Mr.R.Saseetharan, learned counsel for the petitioners would submit that both the writ petitioners were promoted as Tamil Pandit which is higher post to the primary school headmaster and the junior S.Sivamuthu is holding the post of primary school headmaster, but drawing higher pay, which is nothing but pay anomaly and the petitioners' pay need to be stepped up.

4. The learned counsel for the petitioners submitted that it is settled principle that junior should not get higher pay than the senior. Rule 5(2) of the Government of Tamil Nadu Revised pay scale Rules 1998, would read that in case where a senior employee who had drawn incentive increments in the pre-

revised scale and the junior was sanctioned incentive increments in the revised scale of pay, then the pay of the senior may be stepped up to the level of that junior.

5. The learned counsel for the petitioners in support of his submission, relied on a decision of a Division Bench of this court dated 18.08.2022 in ***W.A.No.1696 of 2022 [Mariya Joseph Vs. The Director of School Education and others]***, wherein, this court held that pay anomaly on the ground that the junior person got incentive increments after sixth pay commission recommendations, G.O.25 dated 23.03.2015 would come into play and the writ petitioner is entitled to stepping-up of pay as per the policy of the State. It is further held that the writ petitioner therein is entitled for the relief as claimed by her. It is relevant to note that the prayer of the writ petitioner therein was for a direction to the respondents to step up the scale of pay on par with his junior with retrospective effect with all consequential and other attendant benefits including arrears of salary.

6. Per contra, the learned Additional Government Pleader, while reiterating the submissions as contained in the counter affidavit would submit



that the claim of the petitioners for stepping up of pay was duly considered by the 2nd respondent and found that the petitioners were holding the post of Headmaster of Middle school whereas the junior S.Sivamuthu was holding the post of Headmaster of Elementary School on 05.03.2012 and therefore, the pay anomaly of junior drawing more pay arose and that cannot be rectified since both seniors and junior are not in the same post, same scale of pay and the junior got two promotions much ahead of senior.

7. On a careful reading of the claim of the petitioners herein and the stand of the respondents, it is to be noted that both the petitioners herein were ranked as seniors and the junior S.Sivamuthu was junior and the senior pay was fixed higher than junior throughout. The pay anomaly started when the junior person S.Sivamuthu got incentive increment after Sixth Pay Commission recommendations and on his acquiring M.A. B.Ed., In such circumstances as per the Rules, the pay anomaly has to be rectified.

8. The judgment referred by the learned counsel for the petitioners in W.A.No.1696 of 2022 dated 18.08.2022, would squarely apply to the facts of the present cases on the hand. It is categorically held in several decisions that



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pay anomaly can be rectified by applying G.O.25 dated 23.03.2015 and therefore, the petitioners' pay is to be stepped up as per the Government Orders issued by the State from time to time. There is no doubt that the petitioners herein are seniors than their junior S.Sivamuthu. In such circumstances, the claim of the petitioners is to be allowed.

9. In the result, the Writ Petitions are allowed. The impugned orders dated 27.06.2013 is set aside. The respondents are directed to step up the pay of the petitioners to the level of their junior S.Sivamuthu and fix the petitioners' pay as on 05.03.2012 at Rs.25,710/- and pay the arrears and consequent benefits to the petitioners, within a period of four months from the date of receipt of a copy of this order. No costs.

01.06.2023

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To

1.The Director of Elementary Education

College Road, Chennai-600 006

2.The District Elementary Educational Officer

Tiruppur District, Tiruppur.

3.The Assistant Elementary Educational Officer

Moolanur Panchayat Union, Moolanur

Tiruppur District.

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