



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.12.2023

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THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.18112 of 2020

and

WMP.No.22499 of 2020

V.Parthipan

...

Petitioner

/vs/

1. The District Educational Officer,
District Educational Office,
Harur,
Dharmapuri District.

2. The Block Educational Officer,
Pappireddipatti,
Dharmapuri District.

...

Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of CERTIORARIFIED MANDAMUS caling for the records pertaining the order passed by the 1st respondent in his proceedings Na.Ka.No.493/A6/2020 dated 12.10.2020 and quash the same and directing the respondents to give special grade scale of pay to the petitioner in the cadre of Elementary School Head Master from 23.07.2017 and give all consequential benefits and in accordance with law within a time to be stipulated by this Court.



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WP.No.18112 of 2020

For Petitioner : Mr.P.Ganesan

For Respondents : Mr.S.Nanmaran, Special Government Pleader

ORDER

The petitioner has filed this petition seeking to quash the proceedings of the 1st respondent in Na.Ka.No.493/A6/2020 dated 12.10.2020 and to direct the respondents to give special grade scale of pay to the petitioner in the cadre of Elementary School Head Master from 23.07.2017 and give all consequential benefits and in accordance with law within a time to be stipulated by this Court.

2.Heard, Mr.P.Ganesan, learned counsel for the petitioner and Mr.S.Nanmaran, learned Special Government Pleader for the respondents and perused the materials available on record.

3.This matter lies in a very narrow compass. The petitioner who has been promoted to the post of Elementary School Head Master on 23.07.2007, was reverted back to Secondary Grade Teacher on 05.11.2007 due to some administrative reasons. Thereafter when a vacancy arose in the post of Elementary School Headmaster, he once again got promoted to the post of Elementary School Headmaster from 02.06.2008. And he continued to serve as



the Elementary School Headmaster for more than 10 years. However, the petitioner claims that he is entitled to get the special grade pay as he has completed 10 years of service in the said post. According to the petitioner, he is entitled to the special grade with effect from 18.02.2018 which is inclusive of the earlier short tenure of three months and 15 days for which the petitioner held the post of Elementary School Headmaster between 23.07.2007 to 04.11.2007. But the 1st respondent rejected the request of the petitioner by stating that 10 years of service can be counted only from 02.06.2008 from which date the petitioner has got continuous service in the cadre of Elementary School Headmaster.

4. The one and only submission for the learned counsel for the petitioner is that there is no rule in place to exclude the earlier short tenure of 3 months and 15 days during which he has functioned as Elementary School Headmaster and the petitioner is entitled to include the same and get his special grade pay with effect from 18.02.2018.

5. Mr.S.Nanmaran, learned Special Government Pleader for the respondents 1 and 2 submitted that for the purpose of awarding special pay , the



petitioner ought to have completed 10 years of service and hence the claim of the petitioner cannot be considered.

6. The attention of this Court was drawn to G.O.Ms.276 dated 07.08.1992 which speaks about 10 years of service for becoming eligible to get a special grade pay. The said G.O., does not state about the mode of counting 10 years of service and there is no explicit bar to exclude the period before a break of service in any cadre on account of reversion etc.,

7. Even when the petitioner was promoted in the first instance on 23.07.2007, the promotion was regular one and not ad-hoc promotion. But for the administrative contingency that had arisen latter, the petitioner would not have got the reversal to the earlier post and lost the benefit of promotion. Since the promotion given to him was a regular promotion, it is unfair on the part of the respondent to exclude 3 months and 15 days while calculating 10 years of service. Since the impugned order has been passed without any basis or in support of any rules to exclude the service already rendered before reversion, I feel the impugned proceedings of the 1st respondent dated 12.10.2020 is liable to be set aside.



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8. In view of the same, this Writ Petition is **allowed**. The impugned proceedings of the 1st respondent in Na.Ka.No.493/A6/2020 dated 12.10.2020 is set aside. The respondents are directed to give special grade scale of pay to the petitioner with effect from 18.02.2018 with all consequential benefits in accordance with law within a period of six weeks from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

13.12.2023

Index : Yes
Internet : Yes/No
jrs



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R.N.MANJULA, J.

jrs

To

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