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W.P.No.27243 of 2021
W.M.P.No.28751 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.27243 of 2021
and
W.M.P.No.28751 of 2021

A.Rajasekaran

...

Petitioner

versus

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

2.The Joint Director of School Education (Personnel),
College Road,
Chennai - 600 006.

3.The Chief Educational Officer,
Perambalur,
Perambalur District.

4.The District Educational Officer,
Veppur at Perali District Educational Office,
Perali, Perambalur District.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondents 2 to 4 in connection with the proceedings No.O.Mu.No.59072/C1/E2/2019 dated 18.07.2020, Proceedings No.O.Mu.No.8011/A3/2019 dated 29.07.2020 and Na.Ka.No.3838/A4/2018



dated 01.09.2020 respectively and quash the same and direct the respondents to fix the petitioner's pay under Rule 22 B of Fundamental Rules and as per the Letter No.48211/Pay Cell/2012-1 dated 09.10.2012 issued by the Finance (Pay Cell) Department w.e.f. the date of joining to the post of Headmaster of the High School, Palur, Cuddalore District w.e.f. 04.07.2009 and grant arrears of salary.

For Petitioner : Mr.J.Shanmugasundarababu
For Respondents : Mr.T.Arunkumar
Additional Government Pleader

ORDER

The petitioner, who has been promoted from the post of P.G.Assistant to the post of Headmaster of the High School has filed this Writ Petition, challenging the orders passed by the respondents dated 18.07.2020, 29.07.2020 and 01.09.2020, which rejects the claim of the petitioner for rejecting the promotional increment and consequently direct the respondents to fix the scale pay under Rule 22-B of Fundamental Rules and as per the Letter No.48211/Pay Cell/2012-1 dated 09.10.2012 issued by the Finance (Pay Cell) Department w.e.f. the date of joining to the post of Headmaster of the High School, Palur, Cuddalore District w.e.f. 04.07.2009 for grant of arrears of salary.



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2. Heard Mr.J.Shanmugasundarababu, learned counsel for the petitioner, Mr.T.Arunkumar, learned Additional Government Pleader for the respondents and perused the materials available on record.

3. Mr.J.Shanmugasundarababu, learned counsel for the petitioner submitted that as per the order dated 01.07.2009 which has specifically stated that the petitioner has been promoted and transferred to the post of Headmaster of the High School from his present post of P.G.Assistant.

4. Mr.T.Arunkumar, learned Additional Government Pleader for the respondents submitted that it is only the recruitment by appointment and not promotion by transfer. But in the posting order dated 01.07.2009, it is not mentioned that the petitioner has been recruited by transfer. The reason for rejecting the promotional increment under Rule 22-B of Fundamental Rules is that both the posts carry the same pay and hence the petitioner is not entitled to get a promotional increment.

5. Mr.J.Shanmugasundarababu, learned counsel for the petitioner attracted the attention of this Court to an order of this Court made in



W.P.No.14298 of 2007 dated 14.10.2009 [S.Shanmugam Vs. The Director of School

Education and others] wherein it is held that Rule 22-B of Fundamental Rules does not say anything about the post on which the employee is promoted and carry the same scale of pay.

6. In fact, the Government Letter No.48211/Pay Cell/2012-1, dated 09-10-2012 also, it is clarified as under:-

“Letter No.48211/Pay Cell/2012-1, dated 09-10-2012.

From

*Thiru. S. Krishnan, I.A.S.,
Secretary to Government (Expenditure).*

To

*All Secretaries to Government.
Departments of Secretariat.
All Heads of Departments.
All Collectors including District Magistrates
The Accountant General (Audit.II), Chennai -18.
The Accountant General (CAB), Chennai -9/Madurai.
The Pay and Accounts Officers, Chennai -9/1/8/35/Madurai.
All Treasury Officers.
Copy to: All Recognised Associations*

Sir,

*Sub: Tamil Nadu Revised Scales of Pay Rules, 2009 - Fixation
of pay of employees on promotion to higher post carrying
identical scales of pay and grade pay-clarification-Reg.
Ref: From the Legislative Assembly Secretariat U.O.Note.
No.10001/OP2/2012-1, dated: 27-6-2012.*

*In the reference cited, a clarification has been sought for on the
mode of fixation of pay in respect of employees promoted to higher posts*



on identical scales of pay i.e. in the same pay band and Grade pay in the revised pay structure on or after 1-1-2006.

2. In this connection, it may be stated that as per rule 10 of the Tamil Nadu Revised Scales of Pay Rules, 2009, employees on promotion to higher posts are entitled for the benefit of one increment benefit equal to 3% of the sum of the pay in the pay band and the existing grade pay computed and rounded off to the next multiple of 10 and the same will be added to the existing pay in the pay band. On the same analogy, it is clarified that the employees on promotion to higher posts on identical scales of pay i.e. in the same pay band and same Grade pay in the revised pay structure are also entitled for the benefit of one increment equal to 3% of Basic Pay (Pay + Grade pay) in the low post.

*Yours faithfully,
for Secretary to Government (Expenditure).*

Copy to
Personnel and Administrative Reforms (FR) Department, Chennai-9."

7. So the above clarification would show that even if the promoted post carries the identical scale of pay on promotion, the individual is entitled to one increment equivalent to 3% of Basic Pay (Pay + Grade Pay) in the lower post.

8. The petitioner has given a representation only based upon the above Government Letter. But the respondents had consistently rejected the petitioner's representation by wrongly interpreting Rule 22-B of Fundamental Rules. It is clarified by the Government that the benefit of the



Government Letter and stated that the Administrative order cannot override the statutory benefit given to the employer.

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In the result, this Writ Petition is **allowed**. The orders passed by the respondents in Proceedings No.O.Mu.No.59072/C1/E2/2019 dated 18.07.2020, Proceedings No.O.Mu.No.8011/A3/2019 dated 29.07.2020 and Na.Ka.No.3838/A4/2018 dated 01.09.2020, are quashed and the respondents are directed to fix the petitioner's pay under Rule 22 B of Fundamental Rules and as per the Letter No.48211/Pay Cell/2012-1 dated 09.10.2012 issued by the Finance (Pay Cell) Department w.e.f. the date of joining to the post of Headmaster of the High School, Palur, Cuddalore District w.e.f. 04.07.2009 and grant arrears of salary and pass orders in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

29.11.2023

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

sri



To

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R.N.MANJULA, J.

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