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W.P.No.32205 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.32205 of 2019

G.Vetriselvi

.. Petitioner

VS

1.The Director of Elementary Education,
Chennai – 600 006.

2.The District Elementary Educational Officer,
Villupuram District.

3.The Additional Assistant Elementary Education Officer,
Rishivanthiyam,
Villupuram District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records issued by the 2nd respondent Na.Ka.No.4327/A3/2017 dated 31.10.2017 to quash the same and consequently permit the petitioner to resubmit their representation and further issue direction to the 2nd respondent to reconsider the claim of the petitioner's proposal, in light of judgment of W.P.No.3698 of 2007 and batch, within a time frame and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.T.Panchatsaram

For Respondents : Mr.R.Neethiperumal
Government Advocate



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ORDER

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Writ petition has been filed in the nature of a certiorarified mandamus seeking the records issued by the 2nd respondent Na.Ka.No.4327/A3/2017 dated 31.10.2017 to quash the same and consequently permit the petitioner to re-submit their representation and issue a direction to the 2nd respondent to reconsider the claim of the petitioner's proposal in the light of the judgment dated 18.06.2012 made in WP No. 3698 of 2007 and batch.

2. In the affidavit filed in support of the writ petition, it had been stated by the petitioner that she was appointed as Secondary Grade Teacher on 13.12.1990 in Ulundurpettai Block, Panchayat Union Elementary School, Kattuedyar. On 27.09.2004, she got transferred to Rishvandhiam Union and was promoted as Graduate Teacher on 02.06.2008.

3. In the affidavit, it is further stated that her junior / R.Sathasivam, was initially appointed as Secondary Grade Teacher on 14.12.2000 in Vallam Union and he got promoted as Graduate Teacher on 20.12.2012.



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4. Learned counsel for the petitioner submitted that due to VII pay commission, an anomaly in pay was caused. The petitioner sent a representation to the official respondent on 28.09.2017 for stepping up of her pay on par with her junior / R.Sathasivam. Along with the representation, the petitioner had also made a detailed comparative statement. Learned counsel for the petitioner further submitted that the said proposal was returned vide communication dated 31.10.2017 stating that since the petitioner and her junior / R.Sathasivam were from different unions, the claim made by the petitioner cannot be considered.

5. Learned counsel for the petitioner relied on a judgment of a learned Single Judge of this Court in the case of T.Mani and others v The District Elementary Educational Officer [W.P.Nos. 3698 to 3700 of 2007 dated 18.06.2012]. Though it is a settled position of law, this Court also had an occasion to consider a similar set of facts in W.P.No. 12504 of 2017 and had allowed the writ petition.

6. On the other hand, learned Government Advocate for the respondents submitted that the petitioner had been transferred



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from one unit to another unit. The respondents had compared the grade pay of both the petitioner and her junior / R.Sathasivam while determining the pay matrix. The learned Government Advocate further stated that the official respondents had carefully gone through the records and had come to the conclusion that there was no pay anomaly as claimed by the petitioner and sought dismissal of the petition.

7. Heard learned counsels on either side.

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 the 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



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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.

21.07.2023

Index:Yes/No
Neutral Citation:Yes/No
ssm

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C.V.KARTHIKEYAN,J.

ssm

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