



W.P.No.31526 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE P.B.BALAJI

Writ Petition No.31526 of 2018

M.Gandhiselvin

... Petitioner

-Vs-

1. The Government of Tamil Nadu,
Rep. by Secretary to the Government,
Adi Dravidaar and Tribal Welfare Department,
Fort St. George, Chennai – 600 009.
 2. The Director of Adi Dravidar and Tribal Welfare,
Chepauk, Chennai – 600 005.
 3. The District Adi Dravidar and Tribal Welfare Officer,
Tirunelveli District, Tirunelveli.
 4. The District Elementary Educational Officer,
Tuticorin, Tuticorin District.
 5. The District Elementary Educational Officer,
Tirunelveli District, Tirunelveli.
 6. The Assistant Elementary Educational Officer,
Thenkasi Range, Thenkasi,
Tirunelveli District.
- ... Respondents



W.P.No.31526 of 2018

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 and 2 to protect the last drawn pay of Rs.5900 + 25 and scale of pay of Rs.5300-150-8300 and fix the same to the petitioner with effect from 22.11.2007 and thereafter fix corresponding pay in the revised scale of pay of 2009 and grant consequential benefits including pay arrears.

For Petitioner : Mr.R.Saseetharan
For Respondents : Mr.M.S.Premkumar
Government Advocate

ORDER

The petitioner has approached this Court for issuance of a writ of mandamus directing the respondents 1 and 2 to protect his last drawn pay and scale of pay and fix the same with effect from 22.11.2007 and thereafter fix corresponding pay in the revised scale of pay relating to 2009 and grant all consequential benefits, including pay arrears.

2. The case of the petitioner as projected in the affidavit filed in support of the writ petition is that he was initially appointed as Secondary Grade Teacher on 04.06.1993 at TDTA Middle School, Vedapatti, Villathikulam Range, Tuticorin District. The said school is a



W.P.No.31526 of 2018

Christian Minority School and receives teaching grant from the Government of Tamil Nadu and is also recognized under the Tamil Nadu Private School Regulation Act. On completion of ten years, the petitioner was awarded Selection Grade Scale of Pay on 06.06.2003. The petitioner was lastly working as a Secondary Grade Teacher at TDTA Primary School at Sundarapandiyapuram, Tirunelveli District till 21.11.2007. On 22.11.2007, he was appointed as a Warden, which is equivalent to the post of Secondary Grade Teacher at Government Adi Dravidar and Tribal Welfare Hostel, Seventhipuram. The District Elementary Educational Officer, Tirunelveli District vide proceedings dated 17.04.2008 had granted approval for relieving the petitioner from his post of Teacher (Secondary Grade Teacher) to enable him to join in Government Service.

3. The petitioner also reliance on G.O.Ms.No.992 dated 22.06.1979, which directs that the service rendered in a recognized and aided private school can be taken for counting 10 years of service for awarding Selection Grade for Secondary Grade Teachers after being appointed in Government Service. Being entitled to Selection Grade scale of pay applicable to Secondary Grade Teachers, the petitioner made



W.P.No.31526 of 2018

a representation on 10.11.2015 and one another representation on 19.05.2018 in this regard. Though his representation was forwarded to the Director, Adi Dravidar and Tribal Welfare, the grievance of the writ petitioner is that, no action has been taken pursuant to his representations. Under these circumstances, he has approached this Court for a writ of mandamus.

4. Mr.R.Saseetharan, learned counsel for the petitioner brought it to the notice of this Court that a similar matter has been heard and decided by a Division Bench of this Court in W.A.No.3868 of 2019 dated 16.10.2020, where this Court has categorically held that when the State decided to count the past service of the respondent therein for the purpose of conferment of pensionary benefits, the same yardstick ought to be applied when it came to re-fixation of pay as well .

5. He also placed reliance on the judgment of this Court in W.P.No.7453 of 2016 dated 09.01.2023, where a learned Single Judge of this Court by referring to G.O.Ms.No.992, dated 22.06.1979, which is also referred to in the present writ petition, had held that the service rendered by a teacher in an aided school, on resignation, should be



W.P.No.31526 of 2018

counted for the required period of 10 years of service for the purpose of granting selection grade in that post excluding the period of break, if any.

The learned Single Judge quashed the impugned orders in that writ petition and directed to count the service rendered by the employee as a teacher in an aided school and directed to fixing the Selection Grade pay by counting the service rendered by the petitioner in the said writ petition in the post of Secondary Grade Teacher and accordingly fix the petitioner's pay with arrears of salary and increments. The facts of the said case are almost identical to the facts of the present case as well.

6. The learned Government Advocate also states that the subject matter is squarely covered by the ratio laid down by this Court in W.A.No.3868 of 2019 and in W.P.No.7453 of 2016.

7. In view of the aforesaid circumstances, the writ petition stands allowed and the respondents 1 and 2 are directed to protect the petitioner last drawn pay and scale of pay and fix the same with effect from 22.11.2007 and thereafter re-fix the corresponding pay in the revised scale of pay relating to 2009 and grant all consequential benefits including pay arrears. The respondents shall carry out the necessary



W.P.No.31526 of 2018

exercise within a period of four(4) weeks from the date of receipt of a copy of this order. No costs.

23.06.2023

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

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W.P.No.31526 of 2018

P.B.BALAJI, J.
mp

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