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W.P.(MD)No.16431 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.16431 of 2019

M.Chitra

... Petitioner

vs.

1.The District Educational Officer,
Office of the District Educational Officer,
Sivagangai, Sivagangai District.

2.The Block Educational Officer,
Office of the Block Educational Officer,
Sivagangai, Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.797/A1/2019, dated 10.07.2019, passed by the Respondent No.2 and to quash the same as illegal and consequently, to direct the respondents to step up the salary of the Petitioner with consequential benefits on par with Mrs.R.Umamaheswari who is working as the junior employee Headmistress, Panchayat Union Elementary School, Kandangipatti



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Village, Sivagangai Taluk, Sivagangai District, in the light of Pay Commission reports, dated 01.01.1996, 01.01.2006 and 01.01.2016.

For Petitioner : Mr.J.Pinaygash
For Respondents : Mr.V.Omprakash
Government Advocate

ORDER

This writ petition is filed for issuance of a writ of Certiorarified Mandamus, to quash the impugned order, dated 10.07.2019 of the Respondent No.2 and consequently, to direct the respondents to step up the salary of the Petitioner with consequential benefits on par with Mrs. R. Umamaheswari who is working as the junior employee Headmistress, Panchayat Union Elementary School, Kandangipatti Village, Sivagangai Taluk, Sivagangai District, in the light of Pay Commission reports, dated 01.01.1996, 01.01.2006 and 01.01.2016.

2. The petitioner was initially appointed as Secondary Grade Teacher on 01.05.1996 and obtained selection grade on 01.05.2006.



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Subsequently, the petitioner was promoted as Headmistress on 01.08.2008. Presently, the petitioner is serving as Headmistress in Panchayat Union Elementary School.

3. The contention of the petitioner is that one Umamaheshwari, who is junior to petitioner was working as Headmistress in the Panchayat Union Elementary School from 2013 onwards. The said Umamaheshwari was initially appointed as Secondary Grade Teacher on 12.01.1999 and was promoted belatedly., i.e., 11.03.2013, but she is getting higher salary than the petitioner. The petitioner is receiving Rs.63,300/- but the said Umamaheshwari is receiving Rs.67,500/-. Hence, alleging pay anomaly, the petitioner has preferred the present writ petition seeking to step up his pay.

4. The 1st respondent has filed a counter affidavit stating that the petitioner has received selection grade on 01.05.2006 whereas the said



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Umamaheshwari has received selection grade on 13.01.2009. Moreover, the petitioner was promoted as Primary School Headmistress on 01.08.2008 whereas the said Umamaheshwari was promoted on 11.03.2013. The service particulars of the petitioner and the said Umamaheshwari is extracted hereunder:

Sl.No.	Particulars	M.Chitra (Petitioner)	Umamaheshwari
1.	Date of appointment	27.09.1996 in Government Aided Private School	12.01.1999 Panchayat Union Primary School
2.	Elementary Union at the time of appointment	Ilayangudi Union	Sivagangai Union
3.	Selection Grade in the Secondary Grade Teacher post	01.05.2006	13.01.2009
4.	Date of promotion as Primary School Headmaster	01.08.2008	11.03.2013

5. The counter affidavit also states that at the time when the petitioner and the said Umamaheshwari were promoted from the post of Secondary Grade Teacher to Primary School HM, both were in different



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scales of pay and due to this the alleged pay anomaly had arisen. However, this pay alleged pay anomaly cannot be rectified since the appropriate Rules state that the stepping of pay shall be granted only if the existing pay structure and the revised pay structure of the lower and higher posts in which they are entitled to draw pay shall be identical. Since in the present case it is not identical, then the prayer cannot be granted. The petitioner is relying on the Rule 5 and Rule 13 of the Pay Commission, dated 01.01.2006, but the said rule is applicable on aforesaid condition, since the scale of pay of the petitioner and the said Umamaheshwari is not identical, then the claim of the petitioner cannot be granted. Hence, the 1st respondent prayed to dismiss the writ petition.

6. The contention of the petitioner is that the petitioner was appointed on 24.04.1996 whereas said Umamaheshwari was appointed on 12.01.1999. Hence, the said Umamaheshwari is far junior to the petitioner. Therefore, the petitioner contended that she is entitled to step



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up of pay.

7. Comparing the service particulars of the petitioner and the said Umamaheshwari, it is seen that the petitioner was granted selection grade in the Secondary Grade Teacher post on 01.05.2006 itself and promotion to the post of Primary School Headmistress is 01.08.2008, i.e., prior to the 6th pay commission. However, the said Umamaheshwari was granted selection grade on 13.01.2009 and promotion to the post of Primary School Headmistress is 11.03.2013, i.e., subsequent to 6th pay commission. The 6th pay commission granted in G.O.Ms.No.234, dated 01.06.2009, prescribes the fitment table and the fitment table to the petitioner and the said Umamaheshwari were different. However, this cannot be stated as pay anomaly. The contention of the petitioner is that even though the fitment table is different, the petitioner is senior to the said Umamaheshwari, therefore, the payment should be stepped up.



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8. The issue of pay anomaly is frequently filed before this Court. Therefore, this Court has directed the Director of Elementary Education to constitute a one-man commission to resolve the pay anomalies arising in the Elementary Education Department in W.P.(MD)No.9424 of 2016 batch vide order dated 07.11.2022 in the case of V.K.Kannan V. the Director of Elementary Education and others. Therefore, this Court is remitting the present case also to the Director of Elementary Education to resolve the issue by appointing one man commission. The said exercise shall be completed within a period of four months from the date of receipt of a copy of this order.

9. With this direction, the writ petition is disposed of. No costs.

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Internet : Yes

NCC : Yes / No

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To

- 1.The District Educational Officer,
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