

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.7789 of 2018

L.Gnanasekaran

... Petitioner

-VS-

1.The District Elementary Educational Officer,
Sivagangai District.

2.The Assistant Elementary Educational Officer,
Manamadurai
Sivagangai District.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records calling for the proceedings in O.Mu.No.165/A1/2015 dated 20.04.2015 and quash the same and direct the respondents to step up the petitioner's scale of pay with effect from 03.08.2008 the date on which his junior was given higher scale of pay with all consequential benefits thereof.

For Petitioner : Mr.V.Panneerselvam
For Respondents : Mr.S.Saji Bino
Special Government Pleader

ORDER

Challenging the impugned order of the 2nd respondent dated 20.04.2015 and for a direction to the respondents to step up the petitioner's scale of pay with effect from 03.08.2008 the date on which his junior was given higher scale of pay with all consequential benefits thereof, this writ petition has been filed.

2. The case of the petitioner is that he was appointed as a Secondary Grade Teacher on 27.06.1988 and on completion of 10 years, he was awarded selection grade on 27.06.1998. Subsequently he was promoted as Elementary School Headmaster on 28.06.2000 and as BT Assistant on 27.11.2006. On 02.06.2009, he was promoted as Middle School Headmaster and posted at Panchayat Union Middle School, Keelaparalai. While so, one Krishnaveni joined as Secondary Grade Teacher on 03.08.1988, ie., after the petitioner. She was awarded selection

grade in the year 1998; promoted as Elementary School Headmaster on 16.06.2003 and Middle School Headmaster on 02.06.2010. It is averred in the affidavit that she is getting more pay than the petitioner. It is further averred that Krishnaveni was not promoted to the post of BT Assistant and directly she was promoted to Middle School Headmaster. After the 6th pay commission, which came into effect from 01.01.2006, Krishnaveni, who was junior to the petitioner and who was appointed and promoted after the petitioner, is getting more pay than the petitioner and there occurred a pay anomaly. Since there is a pay anomaly in the cadre of Secondary Grade Teachers, one man commission was constituted and the Government issued G.O.Ms.No.23 dated 12.01.2011 fixing scale of pay for the post of Elementary School Headmaster by granting special allowance and thus, the junior of the petitioner, ie. Krishnaveni was getting more pay. It is seen that the selection grade pay of secondary grade teacher and elementary school headmaster pay are one and the same and hence, the lower grade selection grade service is calculated for selection grade for the cadre of elementary school headmaster. Accordingly, Krishnaveni was awarded selection grade in the cadre of elementary school headmaster with effect from 03.08.2008.

Therefore, the petitioner sent a representation to the respondents on 17.01.2014. Since there was no response, the petitioner filed W.P.(MD) No. 2931/2015 and this Court disposed of the said writ petition by directing the respondents to consider the representation. Pursuant to the said direction, the respondents rejected the claim of the petitioner and hence, the petitioner is before this Court with this writ petition.

3. The learned counsel for the petitioner would submit that admittedly, the petitioner acquired periodical promotion on par with his junior. Initially, he was appointed as Secondary Grade Teacher on 27.06.1988 and his junior Krishnaveni was appointed as Secondary Grade Teacher on 03.08.1988 ie., two months after the petitioner. Subsequently, both were promoted as Elementary School Headmaster on 28.06.2000 and 16.06.2003 respectively; and the petitioner was further promoted as BT Assistant on 27.11.2006 and Middle School Headmaster on 02.06.2009. However, the junior of the petitioner, namely, Krishnaveni was not promoted to the post of BT Assistant and directly she was promoted to the post of Middle School Headmaster. Therefore, as per the 6th pay

commission, pay anomaly occurred and hence, to step up pay his pay, the petitioner initially filed WP(MD) No.2931/2015. Even after the order of this Court, the 2nd respondent rejected the request of the petitioner and hence, the learned counsel prays for appropriate direction.

4. Per contra, the learned Special Government Pleader would submit that though the petitioner has averred in his affidavit about his junior Krishnaveni, she has not been impleaded as respondent in the writ petition. It is submitted that the petitioner was initially appointed in the Singampunari Union and subsequently, he was transferred to Manamadurai Union. It is contended that in the elementary school education, the schools in each union in a district is considered as a separate block and if a teacher is transferred from one union to another union, he/she would relinquish his seniority and he has to be placed as a junior in the transferred union. Accordingly, since the petitioner was transferred from Singampunari Union to Manamadurai Union, he lost his seniority and was placed as a junior in the transferred union, whereas the said Krishnaveni is working all along in Manamadurai Union from the date of her appointment. While so, on

27.11.2006, the petitioner was promoted as BT Assistant and Krishnaveni continued in the post of Elementary School Headmaster. As per letter dated 07.02.2013, the elementary school headmasters, who were serving in the period between 01.01.2006 and 31.05.2009, could be awarded the pay scale of Rs.15600-39100+5400/-. Since the said Krishnaveni was working as Elementary School Headmaster at that point of time, her pay was revised. Since the petitioner was working as BT Assistant, his pay could not be revised and hence, Krishnaveni is receiving higher pay. It is further pointed out that Krishnaveni was directly promoted to the post of Middle school Headmaster from the post of Elementary School Headmaster, whereas the petitioner was promoted from the post of BT Assistant and on this ground also, Krishnaveni is receiving higher pay. Therefore, the pay was fixed according to the pay fixation and hence, no interference is warranted.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents.

6. The facts with regard to the petitioner's appointment, promotion and the appointment, promotion of Krishnaveni, are not in dispute. As rightly contended by the learned Special Government Pleader, the pay of Krishnaveni was revised as per the letter dated 07.02.2013 wherein, it is stated that the elementary school headmasters, who were serving in the period between 01.01.2006 and 31.05.2009 could be awarded the pay scale of Rs.15600-39100+5400/-. Accordingly, her pay was revised, whereas, the petitioner, who was initially appointed in Singampunari union and was transferred subsequently to Manamadurai Union and was placed as junior in the said union, thereby the petitioner lost his seniority in the newly transferred union. It is pertinent to note that since the petitioner was working as BT Assistant and was not working in the cadre of Elementary School Headmaster as per the letter dated 07.02.2013, thereby he has not come under the purview of the pay scale of Rs.15600-39100+5400. Therefore, the said pay anomaly has occurred. It is also to be seen that the petitioner was promoted to the post of BT Assistant and Middle School Headmaster, where the petitioner's pay was higher than the pay for the post of Elementary School Headmaster, ie., the petitioner has been paid more pay

for the promoted post and hence, comparison made by the petitioner is misconceived. It is also pertinent to note here that it is not the case of the petitioner that the respondents have violated the rules and the letter issued by the department. The pay revision was ordered as per the letter dated 07.02.2013. It is also not the case of the petitioner that overlooking his seniority, his junior Krishnaveni was given promotion. Rightly the petitioner as well as Krishnaveni were promoted according to their seniority and thus, the pay anomaly has occurred, which could not be found fault with. Considering these factual aspects, rightly the case of the petitioner was rejected and thus, there is no illegality or infirmity in the order passed by the respondents in rejecting the claim of the petitioner. For all these reasons, the writ petition is liable to be rejected.

7. In the result, the writ petition fails and the same is dismissed.

No costs.

14.02.2023

NCC : Yes/No
Index : Yes/No
RR

To

- 1.The District Elementary Educational Officer,
Sivagangai District.
- 2.The Assistant Elementary Educational Officer,
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Sivagangai District.

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M.DHANDAPANI, J.

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