



W.P.(MD)No.17019 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.17019 of 2016

and

W.M.P(MD)No. 12341 of 2016

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Petitioner

Vs.

1.The Accountant General,
Office of the Accountant General,
(Accounts and Entitlements),
261, Anna Salai,
Chennai.

2. The Director of School Education,
Directorate of Elementary Education,
DPI Complex, College Road,
Chennai – 06.

3. The District Elementary Educational Officer,
Tirunelveli District,
Tirunelveli.

4. The Additional Assistant Elementary Educational Officer,
Keezhapavur,
Pavurchathiram,
Tirunelveli District – 627808.

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Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, calling for records relating to order passed by the 4th respondent by her 1st impugned proceedings, dated 25.02.2016 in Na.Ka.No. 170/AA2/2016, consequently direct the respondents 1 to 4 to revise the scale of pay of the petitioner in the Special Grade Pay scale of Primary School Head and accordingly pay the arrears of salary and re-fix the amount of pension paid to the petitioner and grant other consequential benefits in accordance with G.O.Ms.No.207 School Education Department (G2) dated 30.09.2008 and G.O.Ms.No.23 Finance (Pay Cell) Department, dated 12.01.2011.

For Petitioner : Mr.N.Dilip Kumar

For R-1 : Mr.P.Gunasekaran
Standing Counsel

For R-2 to R-4 : Mr.S.Kameswaran
Government Advocate

ORDER

This writ petition is filed challenging the impugned order, dated 25.02.2016 with consequential relief to re-fix the petitioner's pension in accordance with G.O.Ms.No.207 School Education Department (G2), dated 30.09.2008 and G.O.Ms.No.23 Finance (Pay Cell) Department, dated 12.01.2011.



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2. Heard Mr.N.Dilip Kumar, Learned counsel appearing for the petitioner and Mr.P.Gunasekaran, the Learned Standing Counsel, appearing for the 1st respondent and Mr.S.Kameswaran, Learned Government Advocate, appearing for the respondents 2 to 4. Perused the material documents available on record.

3. The petitioner had joined the service as Secondary Grade Teacher in the Private Aided Minority School namely, Rahmania Primary School, Veerakeralampudur, on 01.02.1986 and thereafter, appointed as Secondary Grade Teacher in the Panchayat Union Middle School, Servalar on 25.09.1987. The petitioner was granted Selection Grade pay on 08.05.1996 after completing 10 years of service. Thereafter, the petitioner was granted Special Grade pay in the post of Secondary Grade teacher on 01.02.2006. Subsequently, it was rectified on 27.07.2006, since before completing 10 years the petitioner was promoted as Primary School Headmaster on 23.12.2005. The petitioner is seeking to fix the Special Grade scale of pay in the post of Secondary grade teacher. Thereafter, fix the scale of pay applicable to the promoted post of Primary School Headmaster.



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4. The petitioner has completely misunderstood the concept of Special Grade and Selection Grade. The employee will be entitled to selection grade, if the employee is stagnating in the same post for more than 10 years without promotion. Then he is entitled for special grade, if he is stagnating in the same post without promotion for more than 20 years.

5. In the present case, the petitioner was appointed in the Private Aided School on 01.02.1986 and then appointed in Government School on 25.09.1987 and was stagnating in the Secondary Grade post more than 10 years. Hence the petitioner is entitled to Selection Grade on 01.02.1996. The respondents have rightly taken the service of the private aided school and the government school and granted Selection Grade on 08.05.1996.

6. The petitioner would complete 20 years in the same post of Secondary Grade teacher on 01.02.2006. If he had continued in the same post until 01.02.2006 he would be entitled to Special Grade pay. But the petitioner was promoted as Primary school Headmaster on 23.12.2005 itself. Hence, the petitioner is not entitled to Special Grade pay, since it cannot be stated that the



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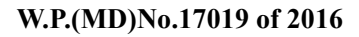
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petitioner is stagnating for more than 20 years as Secondary Grade teacher. In the present writ petition, the petitioner is seeking to grant Special Grade as well as promotion, which is impermissible. The petitioner is not entitled to both, either he is entitled to Special Grade pay or promotion. Therefore, this Court rejecting the claim of the petitioner.

7. The respondents had wrongly granted Special Grade pay in the post of Secondary Grade teacher on 01.02.2006. Subsequently, it was rectified on 27.07.2006. As stated supra the rectification is legally valid. Hence the writ petition is liable to be dismissed and accordingly, this writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
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01.03.2023



1. The Director of School Education,
Directorate of Elementary Education,
DPI Complex, College Road,
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2. The District Elementary Educational Officer,
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Tirunelveli.
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S.SRIMATHY, J

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**Order made in
W.P.(MD)No. 17019 of 2016**

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