



W.P.(MD).No.23344 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.23344 of 2016
and
W.M.P.(MD).Nos.16779, 16780 of 2016
and 3508 of 2020**

S.Ratharani

... Petitioner

Vs.

1.The Director of Elementary Education,
College Road,
Chennai – 6.

2.The District Elementary Educational Officer,
Dindigul,
Dindigul District.

3.The Assistant Elementary Educational Officer,
Vedasandur Union,
Dindigul District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to proceedings impugned proceedings of first respondent herein in Na.Ka.No. 30584/C1/2015 dated 26.04.2016, and consequential impugned order of third respondent in Na.Ka.No.312/A1/2016 dated 03.05.2016 and quash the same.



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For Petitioner : Mr.T.Pon Ramkumar

For Respondents : Mr.V.Omprakash,
Government Advocate.

ORDER

This Writ Petition is filed to quash the order dated 03.05.2016 and the consequential order dated 03.05.2016.

2. The petitioner joined the service as Secondary Grade Teacher in the Panchayat Union Elementary School on 27.02.1989. She was granted Selection Grade on 27.02.1999. Thereafter, the petitioner was promoted as Primary School Headmaster on 16.06.2003. The contention of the petitioner is that the petitioner is entitled to next Special Grade in the post of Primary School Headmaster by adding the service of Secondary Grade Teacher in Primary School Headmaster on 01.04.2009. However, in the meanwhile, the petitioner was granted promotion to B.T.Assistant on 14.08.2008. If any employee is entitled to next increment, the option is given to the employee to postpone the promotion so that the employee will get increment and thereafter opt for the promotional post. In the present case, the petitioner subsequently joined the promoted post on 02.04.2009 and the next increment is on 01.04.2009.



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Therefore, the petitioner claim is that the petitioner had exercised the option given to such employee and based on this, the Assistant Elementary Educational Officer has granted increment to the petitioner vide proceedings dated 12.01.2015. However, the said grant of increment was objected by the Audit.

3. The further contention of the petitioner is that the respondents have been granted benefits to the similarly placed persons, then the Audit has no right to object when it was granted to the petitioner. At the time of admission, this Court has granted interim order of stay for recovery alone.

4. The respondents have filed a counter along with the Vacate Stay Petition stating that the petitioner joined duty as Secondary Grade Assistant on 27.02.1989. She was promoted as the Headmaster of Primary School on 16.06.2003. Even before the petitioner had completed 10 years of service in the Primary School Headmaster, the petitioner was promoted as Middle School Headmaster on 12.10.2009. Erroneously, she was granted Selection Grade Scale of pay by treating her service in the higher post as identical to that of the post of Primary School Headmaster. During the special audit conducted by the audit staff of the first respondent's office, it was pointed out that the above pay



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fixation made to the petitioner goes against the rules prescribed in G.O.Ms. No.179 Education Department dated 06.09.2013. The counter further states that the question of fixation of pay under Fundamental Rule 22B was not put to audit objection. From this, it is evident that the respondents have not considered the petitioner's case under FR 22B, they have relied on only the Government Order.

5. Therefore, this Court is of the considered opinion that the matter has to be remitted back to the first respondent to resolve the issue. Therefore, the first respondent is directed to call for the files pertaining to the petitioner's service. Considering the case of the petitioner's claim in the light of FR 22B and also in the light of applicable Government Order, if the petitioner is entitled to same, the same shall be conferred. If the petitioner is not entitled to, then the authorities shall pass speaking order and serve the copy to the petitioner.

6. At this juncture, the learned counsel appearing for the petitioner submitted that the petitioner has submitted the application for Voluntary Retirement. Therefore, this Court is directing the respondents to process the application for Voluntary Retirement. The respondents need not mix up the application of Voluntary Retirement with the claim of selection grade issue.



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This can be dealt with separately. The entire exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

28.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

The Executive Officer,
Special Grade Town Panchayat,
North Valliyoor,
Tirunelveli District.



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S.SRIMATHY, J.

Nsr

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