



W.P.(MD)No.15075 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.15075 of 2017

and

W.M.P(MD)Nos.11906 & 11907 of 2017

A.Jeyakumar

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort Saint George,
Chennai – 600 009.

2. The Director of Elementary Education,
College Road,
Chennai – 600 006.

3. The District Elementary Educational Officer,
Sivagangai,
Sivagangai District 623501.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of ***Writ Certiorarified Mandamus***, calling for the records relating to the impugned order issued by the 3rd respondent District Elementary Educational Officer in Na.Ka.No.2621/A5/2016 dated 28.07.2017 quash the same and further direct the 3rd respondent District Elementary Educational Officer to sanction and



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pay forthwith the Selection Grade Pay to the petitioner in the cadre of Middle School Headmaster from the date of completion of his ten years of service therein with arrears and other attendant benefits.

For Petitioner : Mr.K.Ragatheesh Kumar, for
M/s.Isaac Chambers

For Respondents : Mr.M.Ramesh,
Government Advocate

ORDER

This writ petition is challenging the order, dated 28.07.2017, directing the 3rd respondent to sanction selection grade pay in the cadre of Middle School Headmaster, from the date of completion of 10 years.

2. Heard Mr.K.Ragatheesh Kumar, for M/s.Isaac Chambers, learned counsel appearing for the petitioner and Mr.M.Ramesh, learned Government Advocate appearing for the respondents. Perused the material documents available on record.

3. The petitioner was appointed as Secondary Grade Teacher on 22.04.1986, subsequently, promoted as Primary School Headmaster on



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13.09.1995, again promoted as Middle School Headmaster on 03.06.2002 and posted as Assistant Elementary Educational Officer on 05.01.2005.

4. The contention of the petitioner is he was promoted as Primary School Headmaster on 13.09.1995 and ordinary pay for the post of Primary School Headmaster at that point of time as per IV Pay Commission was Rs.5300-15-8300 and on completion of 10 years of service in the same post, selection grade pay of Rs.6500-200-1500 will be awarded. However, before completion of 10 years in the post of Primary School Headmaster, he was promoted as Middle School Headmaster on 03.06.2002. The ordinary scale of pay for the Middle School Headmaster was Rs.5900-200-9900. If the petitioner was not granted Middle School Headmaster the petitioner would have continued in the post of Primary School Headmaster and on completion of 10 years of service, he would have been awarded selection grade pay of Rs.6500-200-10500 in the post of Primary School Headmaster on 13.09.2005. Thereby, the petitioner's scale of pay would have been much higher than the ordinary pay for the post of Middle School Headmaster. Hence this has caused pay anomaly in fixing the pay for person holding the lower officiating post and higher officiating post. For instance,



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a Junior who continues in the post of Primary School Headmaster without any promotion as Middle School Headmaster, on completion of 10 years in the cadre of Primary School Headmaster would draw more pay of Rs.6500-200-10500, whereas a senior who got promotion to the next level without selection grade in lower post would only get the scale of Pay of Rs.5900-200-9900/-.

5. The further contention of the petitioner is that the Government in light of Rule 4(3) of Tamil Nadu Revised Scales of Pay Rules, 1989, has issued G.O.Ms.No.57, Finance (Pay Cell – II) Department, dated 28.01.1991, in order to avoid pay anomaly. Moreover, the Government has also clarified the method of fixing the revised scale of pay in ordinary, selection and special grade. However, the respondents have failed to fix the grade pay to the petitioner. The similarly placed persons in various other districts, especially in Trichy District the respondents have considered the same and rectified the pay anomaly through proceedings, dated 29.01.2018.

6. The learned counsel appearing for the petitioner relied on the letter issued by the Government, dated 08.11.2010 in Clause 4(1) and the same is



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extracted hereunder:

“The revised Selection Grade / Special Grade scales of pay in the case of employees awarded Selection Grade / Special Grade prior to 1-1-2006 and in whose cases the Ordinary Grade scales of pay have been revised based on the recommendations of One Man Commission / further order of Government thereon shall be fixed as per the scales of pay indicated in the Annexure -I to this letter following the same methodology of fixation of pay in the Selection Grade / Special Grade scales of pay of employees as was done in pre--2006 scales of pay as indicated in Appendix-II of G.O.Ms.No.162, Finance (PC) Department, dated: 13-4-98 subject to the same condition stipulated therein that if the revised Selection Grade / Special Grade scales of pay indicated in the Annexure-I happens to be higher than the first level/second level promotion posts, then in such cases only the revised Selection Grade / Special Grade scales of pay should be restricted to the level of their first level and second level promotional posts respectively”.

The Learned Counsel submitted that the letter has clarified that the respondents should take level as the criteria for fixing the special grade and selection grade, however, the respondents have misinterpreted this by fixing the grade pay. After considering the aforesaid submission, this Court is of the considered opinion that



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the issue ought to be considered by some higher authority, since it is recurring claim among the teachers in Elementary Education Department.

7. But this Court is not able to accept another contention of the petitioner.

This Court entertains a doubt, whether a person who has been promoted to Middle School Headmaster is entitled to consider as if he is deemed to be in Primary School Headmaster for 10 years and fix selection grade, thereafter, fixing the ordinary grade scale of pay in the promoted post. The petitioner is claiming that he should be considered as deemed to be in Primary School HM for 10 years even though he has been promoted to Middle School HM before completing the 10 years of Primary School HM.

8. Since both the issues have serious repercussions and has state wide impact and moreover the issue is recurring problem in Education Department, especially in the Elementary Education, this Court is of the considered opinion that the “Director of Elementary Education” ought to consider the issues and pass clarification orders.



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9. Therefore, impugned order, dated 28.07.2017 is hereby set aside and this Court directing the 2nd respondent to consider the aforesaid two issues and pass orders within a period of twelve weeks from the date of receipt of a copy of the order.

10. Accordingly, this writ petition is allowed. No Costs.
Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
ksa

16.03.2023

To

1. The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort Saint George,
Chennai – 600 009.
2. The Director of Elementary Education,
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3. The District Elementary Educational Officer,
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S.SRIMATHY, J

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**Order made in
W.P.(MD)No.15075 of 2017**

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