



W.P.No.4066 of 2017

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE N. MALA

W.P.No.4066 of 2017
and WMP.No.4220 of 2017

Vasu.Thamizharasan

... Petitioner

Vs.

1. The Government of Tamil Nadu
Rep.by Secretary to Government
School Education Department,
Fort.St.George, Chennai 600 009
2. The Director of Elementary Education
College Road, Nungambakkam,
Chennai 600 006.
3. The District Elementary
Education Officer,
Villupuram, Villupuram District.
4. The Additional Assistant
Elementary Education Officer
Thirunavalur, Ulundurpet (Taluk)
Villupuram District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, to issue Writ of Certiorarified Mandamus to call for the entire records relating to the impugned order in proceeding second respondent had issued the impugned order of in his proceeding Na.Ka.No.6814/E1/2016 dated 31.08.2016 and quash



W.P.No.4066 of 2017

the same and to direct the respondents to award pay on par with the petitioner's Junior Thiru.N.Janakiraman viz., Rs.825/- per month w.e.f. 27.09.1996, Rs.275/- from 01.09.1998, total difference Rs.825+275 = 1100/- per month.

For Petitioner : Mr.K.Thennan

For Respondents : Mr.S.Prabhakaran
Government Advocate

ORDER

The petitioner has filed the above writ petition challenging the order dated 31.08.2016, by which his representation to step up his pay at par with his junior was rejected.

2. The petitioner was initially appointed as Secondary Grade Teacher and later appointed as Elementary School Head Master on 01.09.1964, at Panchayat Union Elementary School, A.Sathanur, Ulundurpet Panchayat Union, Villupuram District. He was transferred and posted as Elementary School Head Master to Thiru Navalur Panchayat Union on mutual transfer with one Thiru.T.Kaliyamoorthy. Then he was allowed to continue as Elementary School Head Master for 6 months period from 01.12.1977 to 02.06.1978 at Panchayat Union Elementary School, Nagar, Thirunavalur Panchayat Union Unit. Then



again during the general transfer period he was transferred as Secondary Grade Assistant in Thirunavalur Panchayat Union. Then he continued as Secondary Grade Assistant from 03.06.1978 to 31.05.1997 for 20 years. The petitioner retired as Elementary school Head Master on 31.08.2002. Whiles, the petitioner submitted a representation to step up his pay on par with his junior to the 2nd respondent. As the 2nd respondent did not consider the petitioner's representation, the petitioner filed W.P.No.40899 of 2015. This Court vide order dated 05.01.2016 in W.P.No.40889 of 2015 directed the 2nd respondent therein to pass orders within a period of 8 weeks. Even thereafter no order was passed and hence the petitioner filed contempt petition. Only after filing the contempt petition, the 2nd respondent passed the impugned order vide proceedings Na.Ka.No.6814/E1/2016 dated 31.08.2016. Hence the petitioner filed the writ petition for the aforesaid relief.

3. The 4th respondent in his counter reiterating the stand in the impugned order stated that in education department seniority was reckoned on the basis of date of joining the Panchayat Union concerned and that as the petitioner's junior was working in the said Union even before the petitioner, the petitioner could not claim seniority over him. It was further stated that the pay anomaly could be rectified only with regard to teacher's working in the same Panchayat Union and



not to teachers transferred from other Union to the concerned Union.

WEB COPY

4. The learned counsel for the petitioner submitted that the issue regarding the stepping up of pay is no longer res integra and the same is covered by the following judgments.

- 1. T.Mani and others Vs. The District Elementary Educational Officer
Vellore, Vellore District***
- 2. K.Vijayarani Vs. The District Elementary Educational Officer,
Thoothukudi District, Thoothukudi and others***
- 3. A.Amaladas Vs The Director of Elementary Education, College Road,
Chennai- 6 and others***

5. The learned Government Advocate reiterated the stand taken in the impugned order.

6. Heard both sides and perused the materials available on record.

7. From a reading of the impugned order it is seen that the reason cited inter alia, for rejecting the petitioner's request for rectification of the pay anomaly was that the petitioner was transferred from Ulundurpet Panchayat Union to



W.P.No.4066 of 2017

Thirunavalur Panchayat Union and so he could not claim pay parity with his junior who was appointed in Thirunavalur Panchayat Union and continued there. In my view the said reason is diametrically opposite to the settled legal position. Identical legal issue was raised and dealt in the judgment of this Court in W.P.(MD).No.742 of 2018 dated 07.02.2018. This Court held as follows:-

5. The first respondent has proceeded on the footing that since the petitioner got transferred from Pudukottai to Kayathar Union, it is not possible to set right the pay anomaly. The reason assigned by the first respondent in the impugned order is un-sustainable in law. Even though the writ petitioner came to Kayathar Union by way of transfer and has to be placed at the bottom of the seniority list, the fact remains that the Shanthi got appointment as Secondary Grade Teacher at Kayatharu Union only later in point of time. Therefore, by no stretch of imagination the said Shanthi could have stolen a march over the petitioner. The order impugned in this writ petition is quashed. The respondents are directed to set right the pay anomaly and step-up the pay of the petitioner on par with said Shanthi. Such an order shall be issued by the respondents within a period of eight weeks.

8. The same principle is reiterated in the other judgments cited by the petitioner's counsel.

9. Under the facts and circumstances of the case and in the light of the



W.P.No.4066 of 2017

WEB COPY

factual position and the settled legal position, the writ petition is allowed. The respondents are directed to step up the pay of the petitioner on par with his junior as prayed by the petitioner. The order in this regard shall be passed within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is also closed.

11.09.2024

dpq

Index : Yes /No

Speaking Order : Yes/No

To

1. The Secretary to Government
Government of Tamil Nadu
School Education Department,
Fort.St.George, Chennai 600 009
2. The Director of Elementary Education
College Road, Nungambakkam,
Chennai 600 006.
3. The District Elementary
Education Officer,
Villupuram, Villupuram District.
4. The Additional Assistant
Elementary Education Officer
Thirunavalur, Ulundurpet (Taluk)
Villupuram District.

N. MALA, J.



WEB COPY



W.P.No.4066 of 2017

dpq

W.P.No.4066 of 2017
and WMP.No.4220 of 2017

11.09.2024