



W.P.No.2759 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2024

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THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.2759 of 2021
and
W.M.P.No.3104 of 2021

S.Ramalakshmi

... Petitioner

Vs.

1.The Director of Elementary Education,
DPI Buildings,
College Road,
Chennai-600 006.

2.The Chief Educational Officer,
Thiruvallur-602 001.

3.The District Educational Officer,
Thiruvallur District.
O/o.District Educational Office,
Perunthalaivar Kamaraj Higher
Secondary School Campus,
Ambattur,
Chennai-600 053.

....Respondents

Prayer:-Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the second respondents relating to order on endorsement memo No.1210/A5/2018 dated 11.04.2018 and to quash the same and to direct the respondents herein to refix the pay of the petitioner



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on par with her junior with effect from 21.03.2006 and to grant all consequential monetary benefits to the petitioner herein.

For Petitioner : Ms.T.Subhiksha

For Respondent : Ms.Akila Rajendran, GA
Nos.1 to 3

ORDER

The order of the second respondent made in endorsement memo No.1210/A5/2018 dated 11.04.2018 is put under challenge in this Writ Petition. Further, the petitioner seeks a direction to the respondents herein to re-fix her pay on par with her junior with effect from 21.03.2006 and to grant all consequential monetary benefits to her.

2. Heard Ms.T.Subhiksha, learned counsel for the petitioner and Ms.Akila Rajendran, learned Government Advocate appearing on behalf of the respondents.

3. The petitioner herein was initially appointed as Secondary Grade Teacher on 31.01.1986 and thereafter promoted as BT Middle School Headmaster with effect from 01.06.2005 and retired on



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31.10.2019. She made a representation to the respondents on 06.01.2008 to step up her pay on par with her junior S.Santhanamy with effect from 21.03.2006. But the same was rejected by the respondents. Hence, the present Writ Petition.

4. The learned counsel for the petitioner submitted that the respondents have erred in considering the petitioner's claim for rectification of pay anomaly and re-fixation of pay on par with her junior in terms of the provisions of G.O.Ms.25 (Personal and Administrative Reforms Department) dated 23.02.2015. She also contended that the reasons assigned by the second respondent in the order impugned in regard to pay anomaly of a senior and junior serving in different union cannot be rectified, is unsustainable as per the ratio laid down by the Hon'ble Madurai Bench of this Court in W.P. (MD) No. 742 of 2018 dated 07.02.2018. She further submitted that the second respondent had rejected her claim placing reliance on the circular dated 11.08.2016 issued by the first respondent in which it had been stated that rectification of pay anomaly cannot be done for persons, who were appointed in a different Union and thereafter on transfer had joined another Union and comparing the pay given to the junior, who has already appointed and serving in the said Union. At



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At this point of time, the learned counsel contended that the said circular is only with reference to G.O.Ms No.320, Finance (PC) Department dated 02.04.1990 and not with reference to G.O.Ms No.25 dated 23.02.2015. The learned counsel drew the attention of this Court that the junior was being transferred on 20.11.1990 to the Villivakkam Union whereas the petitioner is already serving in the said Union from 31.01.1986. Thus, the act of the respondents in refusing to rectify the pay anomaly of the petitioner, who is drawing lesser pay than her junior is *per-se* illegal and unsustainable in the eye of law and hence, prayed that the impugned order of the second respondent dated 11.04.2018, is liable to be quashed.

5. Per contra, the learned Government Advocate submitted that the respondents have rightly rejected the claim of the petitioner stating that the fixation of pay on par with junior is not applicable in respect of teachers initially appointed in a particular Union and transferred to other Unit of Establishment. By relying on the provision in G.O.Ms No.234, Finance Department dated 01.06.2009, which laid down to set right to pay the anomaly between senior and junior, the conditions in Rule 5 of the G.O., viz., a) both junior and the senior Government employees should belong to the same category and



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should have been promoted to the same post and b)the pre- revised scale of pay and the revised scale of pay along with grade pay of the lower and higher post to which they are entitled to draw pay should be identical has to be satisfied and submitted that admittedly, in the present case on hand, the petitioner has not fulfilled the aforesaid conditions.

6. Furthermore, she submitted that the petitioner is not entitled for stepping up of pay on par with her junior for the following reasons:-

i)As per the amended TamilNadu Elementary Educational Subordinate Service Rules, the Unit of Establishment is the Panchayat Union concerned and hence, the pay fixation on par with junior, cannot be made applicable in respect of teacher initially employed in a particular Unit and transferred to other Unit of Establishment.

ii)As per the guidelines issued by the Director of Elementary Education vide proceedings in Rc.16907/E1/2026 Dated 11.08.2016, pay fixation on par with junior, is not applicable to the teachers appointed in a particular Union and came to another Union on transfer.

iii)The petitioner and the said junior was holding different post



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as on the date on which the pay difference occurs i.e., 21.03.2006.

The petitioner was holding the post of BT Middle School Headmaster and the said junior was holding the post of Selection Grade in Primary School Headmaster.

iv)The scale of pay and the grade pay of the petitioner and the said junior is different as on the date of claim i.e. 21.03.2006.

7. She contended that the petitioner was promoted as B.T. Middle School Head Master with effect from 01.06.2005 before completion of 20 years of service in the post of Secondary Grade Teacher and argued that as the petitioner was promoted to the higher post before completion of 20 years, the question of special grade in the feeder post, does not arise. Also that, since the petitioner and the said junior S.Santhanamary was holding different post carrying different time scale of pay as on 21.03.2006, the petitioner is not entitled for stepping of pay on par with her junior as per G.O.Ms.No.25, Personnel and Administrative Reforms Department, dated 23.02.2015. Hence, the learned Government Advocate prayed this Court to dismiss the petition as the petitioner is not entitled for the relief sought for in this Writ Petition.



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8. Considered the submissions made by the respective counsel on either side and perused the materials available on record.

9. This Court having considered the aspects that the petitioner herein and her junior does not belong to the same category and as per the guidelines of the proceedings dated 11.08.2016 issued by DEE, pay fixation on par with junior is not applicable to the teachers appointed in a particular Union and came to another Union on transfer, which is also emphasized by the amended Tamil Nadu Elementary Educational Subordinate Service Rules, finds that the petition is devoid of merits and is liable to be dismissed and accordingly, the Writ Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed. There shall be no orders as to costs.

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Index: Yes/No
Order: Speaking/Non-Speaking
NCC : Yes/No

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VIVEK KUMAR SINGH, J.

DP

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