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W.P.No.17646 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.17646 of 2015

J.Gopal,

... Petitioner

Vs.

1.The Director,
Adi Dravidar Welfare Department,
Chennai.

2.The District Adi Dravidar and Tribal Welfare officer,
Udagamandalam,
The Nilgiris

3.The Head Master
Government Tribal Residential Higher Secondary School,
Kunjappanai, The Nilgiris.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, to call for the entire records relating to the Impugned Order dated 9.3.2015 passed by the 1st respondent herein in Na.Ka. No.A2/ 019807/2014 and quash the same and consequential direction to the 1st respondent to pay Additional Allowances to the petitioner for holding the Post of Head Master (In-Charge) in the 3rd respondent School from 06.01.2011 to 19.12.2011.



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For Petitioner : M/s.L. Mouli
For Respondents :
(for R1 to R3) : M/s.V.Jeevagiridharan, AGP

ORDER

Challenging the rejection of his request for additional charge allowance for holding the post of Head Master (in charge) in the 3rd respondent school, the petitioner is before this Court.

2. It is his case that he had joined as a B.T. Assistant at the Government Tribal Residential High School at Sangarai, Kolli Hills on 09.02.1999. Thereafter, he was transferred to 2 other schools and ultimately transferred to the 3rd respondent school on 24.03.2010. On 06.01.2011, he was made Headmaster (in charge) of the 3rd respondent school. The petitioner had written a letter to the 2nd respondent requesting him to relieve him from the additional duty as Headmaster (in charge) and on 19.12.2011 he was relieved from the said post. Thereafter, he continued to work as a P.G. Assistant.



3. The petitioner would submit that on 30.01.2011 he had made a representation to the 2nd respondent to give him additional payment for holding additional charge as Headmaster (in charge). The 2nd respondent had neither sent a reply nor did he make additional payment. The petitioner had sent two other representations on 14.02.2011 and 28.03.2011 but had received no response for the same.

4. Thereafter, once again, he had sent a representation dated 05.10.2012 to the 2nd respondent seeking additional payment for holding additional charge as per Fundamental Rule 49. Once again there was no response, constraining the petitioner to file W.P.No.7397 /2013 before this Court for a direction to the 2nd respondent to consider his representation dated 05.10.2012.

5. By an order dated 27.03.2013, this Court was pleased to direct the 2nd respondent to consider the petitioner's representation dated 05.10.2012 within a period of 8 weeks. Following the said



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order, the petitioner had sent a representation dated 22.09.2013 together with the order passed by this Court. The 2nd respondent even thereafter did not pass orders and ultimately the petitioner had filed a Contempt Petition in Cont.P.No.1526 of 2014. After the filing of the Contempt Petition, the 2nd respondent had passed an order dated 04.07.2014 granting the petitioner additional charges allowances. However, on 18.07.2014, the 2nd respondent had passed another order cancelling the order dated 04.07.2014 stating that only the 1st respondent had the power to grant additional charges allowance and requested the 1st respondent to pass necessary orders.

6. Thereafter the petitioner had sent representations dated 19.08.2014 and 25.09.2014 to the 1st respondent. The 1st respondent on receiving the 2nd respondent's order dated 18.07.2014 and the petitioner's representations did not pay the additional charges allowances. Aggrieved by the same, the petitioner once again knocked at the doors of this Court by filing W.P.No.28892/2014 seeking a direction to the 1st respondent to pay additional charges for holding



the post of Headmaster (in charge).

7. By an order dated 06.11.2014 this Court was pleased to pass an order directing the 1st respondent to pass orders within a period of 6 weeks. The petitioner had communicated the above order to the 1st respondent. However, despite this communication, there was no compliance with the order. Therefore, the petitioner had issued a legal notice dated 05.02.2015 bringing to the notice of the 1st respondent the order of this Court dated 06.11.2014 and stating that if said order was not complied with, the petitioner would have to invoke the contempt jurisdiction. Thereafter, the 1st respondent by the impugned order dated 09.03.2015 had rejected the request of the petitioner on the following grounds:-

"a. During the academic year 2011-12 the petitioner had taken only 14 periods instead of 28 periods.

b. During the academic year 2011-12 out of 8 students only 3 students had passed the Mathematics subject taught by the petitioner.



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c. During the tenure of the petitioner only

60% of the students had passed 10th and 12th examination.

d. During the tenure of the petitioner he did not take any steps to enroll new students to the school"

Challenging the same, the petitioner is before this Court.

8. The petitioner would submit that he is entitled to additional remuneration in the light of the Fundamental Rules 49. He has held an additional charge for over a year and therefore he is entitled to the same. This statement has been refuted by the respondents in their counter by contending that Fundamental Rule 49 contemplates payment of additional allowance only when one holds full additional charge and not for an additional charge. In short, the respondents had reiterated the contents of the impugned order.

9. The entire issue revolves around the petitioner's entitlement under Fundamental Rule 49. Fundamental Rule 49 (1)(ii) & 49 (4)(ii)



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would read as follows:-

49.(1) (ii) - No additional pay shall be granted for holding additional charge of current duties of one or more posts."

49.(4) (ii) - (ii) When the posts hold are in the same office and of the same rank, additional pay shall not be admissible if the duties of the said additional post are of exactly identical nature and if the responsibilities are such as can easily be spread out among others holding the same posts.

10. Therefore, a reading of the above would make it clear that in order to avail the benefit of the additional pay, the person should hold full additional charge. In the instant case, the petitioner who is working as a P.G.Assistant in the 3rd respondent school was only assigned an additional charge for the post of Headmaster from 06.01.2011 to 19.12.2011 and not the full additional charge. Therefore, the order passed by the 1st respondent dated 09.03.2015 is very much in order and I see no reason to interfere with the same.



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11. Accordingly, the Writ Petition is dismissed. No costs.

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(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

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