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W.P.No.4648 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2024

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.4648 of 2020

1.A.Siva Balachandran (Died)

2.S.Revathy

3.S.Avudaiyappa Raghul

4.S.Niranjana Lakshman Kishore

(P2 to P4 are substituted as LRs' of deceased P1, as per order dated
03.09.2024 in W.M.P.No.25263 of 2023 by GKIJ)

... Petitioners

Vs.

1.The Secretary to Government,
School Education (S.E.4(1) Department,
Fort St.George, Chennai – 9.

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

3.The Chief Educational Officer,
Dharmapuri District, Dharmapuri.

4.The District Educational Officer,
Dharmapuri District.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying
for issuance of Writ of Certiorarified Mandamus calling for the records of the



W.P.No.4648 of 2020

first respondent in connection with the impugned order passed by him in Letter No.5556/S.E.4(1)/2019 dated 23.12.2019 and quash the same and direct the respondents to fix the salary of the petitioner as Gr-III Librarian in the scale of pay of Rs.400-15-490-20-650-25-700 and consequently direct the respondents to revise the scale of the petitioner including pensionary benefits, draw and disburse the arrears.

For Petitioners : Mr.Venkataramani,
Senior Counsel
for Mr.M.Muthappan

For Respondents : Mr.T.M.Rajangam,
Government Advocate

ORDER

This writ petition has been filed by the petitioner to call for the records of the first respondent in connection with the impugned order passed by him in Letter No.5556/S.E.4(1)/2019 dated 23.12.2019 and quash the same and direct the respondents to fix the salary of the petitioner as Gr-III Librarian in the scale of pay of Rs.400-15-490-20-650-25-700 and consequently direct the respondents to revise the scale of the petitioner including pensionary benefits, draw and disburse the arrears.



W.P.No.4648 of 2020

WEB COPY

2. The case of the petitioner is that the petitioner is a graduate in Science (Chemistry) and obtained a certificate in Library Science and has undergone a certificate course in Library Science (C.LIS) and also obtained a Bachelor's degree in teaching. The petitioner was appointed as a Librarian at Papparapatti Government Higher Secondary School, Dharmapuri District on 16.07.1984 in the scale of pay of Rs.350-10-420-15-600 and got superannuated on 31.05.2016.

2.1. After his appointment as Librarian, the petitioner made a representation to revise his scale of pay as Grade-III Librarian, since his appointment was only to the post of Grade-III Librarian vacancy by transfer of service of one Mrs.Maduram. However, the same was not considered. Therefore, the petitioner has made another representation dated 25.02.2019 before the fourth respondent and the same was recommended by the fourth respondent on the ground that the petitioner was possessing the required qualification prescribed for the post of Grade-III Librarian and requested that his scale of pay may be revised from the date of appointment i.e., 20.07.1984.



W.P.No.4648 of 2020

2.2. The claim of the petitioner was also recommended by the second respondent vide his Letter No.18371/A5/P4/2019 dated 10.04.2019.

However, the said recommendation was rejected by the first respondent vide Letter No.5556/S.E.4(1)/2019 dated 23.12.2019. Challenging the same, the petitioner has come forward with the present writ petition.

3. Learned counsel for the petitioner submitted that the qualification for the post of Grade-III Librarian is a graduate and a certificate course in Library science. Being a graduate at the time of appointment, the scale of pay of the petitioner ought to have been corrected by the respondents at the earliest point of time. Moreover, initially the post was created as Hindi Pandit and subsequently, it was converted into a Librarian post and when the petitioner is fully qualified for appointment to the post of Grade-III Librarian, he cannot be denied to the scale of pay applicable to the post.

4. A counter affidavit dated 25.09.2020 was filed on behalf of the fourth respondent. Learned Government Advocate appearing for the respondents would submit that initially the petitioner was appointed as Librarian in Thiagi Subramania Siva Government Higher Secondary School



for Boys, Papparapatti with effect from 20.07.1984 by the then fourth respondent and his services were regularized in Librarian post with effect from 20.07.1984. His probation has also been declared on the afternoon of 10.08.1986 in the librarian post. He was awarded Selection Grade in Librarian Post with effect from 28.07.1994 and Special Grade with effect from 28.07.2004. Further, he was awarded Bonus increment for completing 30 years of service in Librarian post on the afternoon of 28.07.2014 and retired from service on the afternoon of 31.05.2016.

5. Learned Government Advocate would further submitted that Librarian posts in the cadre of Grade-I (Degree with B.Lib. Science), Grade-II (Degree with Diploma in Library Science) and Grade-III (Degree with Certificate in Library Science) are not being sanctioned by the Government to Government High and Higher Secondary Schools functioning under the control of second respondent. The above category of Librarian posts are only existing in Government Colleges and Libraries functioning under the control of Director of Public Libraries. In School Education Department, the only sanctioned posts is Grade-IV Librarian, for which SSLC and Certificate Course in Library Science are prescribed as educational qualification.



W.P.No.4648 of 2020

WEB COPY

6. Learned Government Advocate would further submitted that one vacancy of Librarian post occurred in Thiagi Subramania Siva Government Boys Higher Secondary School, Papparapatti with effect from 09.02.1984, due to promotion of Mrs.N.S.Madhuram, Librarian to the post of Tamil Pandit Grade-1, carrying a scale of Pay of B.T.Assistant. The fourth respondent obtained prior permission from the third respondent for filling up of the above Librarian vacant post, by direct recruitment, through Employment Exchange. This being so, the District Employment Officer, Krishnagiri issued a certificate regarding “Non-Availability of suitable candidates” for appointment to the post of Librarian in Scheduled Caste. As per communal roaster, the next rotation was Backward Class. Therefore, the District Employment Officer, Krishnagiri was requested to sponsor the qualified candidates in Backward Class turn with requisite qualification i.e., any Degree with a certificate course in Librarianship (or) the Diploma in Librarianship to fill up the vacant post in the time of pay of Rs.350-10-420-15-600, by the fourth respondent. Accordingly, the District Employment Officer, Krishnagiri sponsored three qualified candidates to make appointment in one vacant post of Librarian.



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7. Learned Government Advocate appearing for the respondents would further submit that out of the above said three candidates, the petitioner was selected for appointment as Librarian by the fourth respondent and issued with appointment order in Rc.No.4912/A1/1984 dated 16.07.1984, indicating the scale of pay of Rs.350-10-420-15-600 in which he was eligible to get salary in Grade-IV Librarian post. While placing indent to the District Employment Officer, Krishnagiri, requesting to sponsor qualified candidates for filling one Librarian post by the then fourth respondent, in the indent form, the scale of pay applicable to Grade-IV Librarian post i.e., Rs.350-10-420-15-600 had been furnished correctly. Hence, the petitioner was well aware that he was appointed to the post of Grade-IV Librarian only.

8. Learned Government Advocate appearing for the respondents would further submit that the petitioner accepted the appointment order and joined duty as Librarian with effect from 20.07.1984 forenoon. If he had any doubt about the scale of pay mentioned in his appointment order, he should have approached the then fourth respondent, soon after the receipt of the appointment order, before joining duty. However, he failed to do so. He



joined duty as Librarian by accepting the appointment order and he did not refuse at any point of time, from the date of his first appointment to till date of retirement to receive his monthly salary stating that “he was paid salary in the lesser scale of pay” than the scale of pay eligible to him. Moreover, he had an opportunity of getting promotion to the post of B.T.Assistant, according to strict seniority at state level on the basis of seniority list prepared by the Joint Director of School Education (Personnel), Chennai, as on 1st January of each year. But, he did not take any risk to get promotion to the post of B.T.Assistant, even though he acquired B.Sc., with B.Ed., Educational Qualification.

9. Learned Government Advocate appearing for the respondents would further submit that after his retirement, the petitioner has given representation to the Higher Authorities of School Education Department on 25.02.2019, stating that as he had acquired B.Sc., Degree and Certificate Course in Librarian before his appointment, he is eligible to get the scale of pay applicable to Grade-III Librarian and his pay should be fixed on the date of his first appointment in Rs.400-700 scale of pay, instead of already fixed pay i.e., Rs.350-600 and his pay in the consequent pay commissions, Selection



W.P.No.4648 of 2020

Grade and Special Grade should also be revised till his date of retirement.

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10. Learned Government Advocate appearing for the respondents would further submit that the petitioner has accepted to work in the Librarian post, having the scale of pay for Grade-IV Librarian. Having served for so long years and kept silent till the end of his service, all of a sudden he cannot make a claim for higher scale of pay just because he is qualified for Grade-III Librarian post, whereas he was appointed only in Grade-IV Librarian post. His claim for higher scale of pay when he accepted the scale of pay applicable to the Grade-IV Librarian and worked for several decades is barred by the principle of promissory estopped as held by the Supreme Court of Indian in Motilal Padapat Sugar Mills Co. Ltd., Vs. State of Uttar Pradesh (1979) 2 SCC 409.

11. Learned Government Advocate appearing for the respondents would further submit that the Secretary, School Education Department, Government of Tamil Nadu in his letter Rc.No.5556/SE.4(1)/2019 dated 23.12.2019 has rejected the claim of the petitioner on the ground that “*in the*



W.P.No.4648 of 2020

indent form placed before the District Employment Officer, Krishnagiri, calling for qualified candidates for appointment of one Librarian post existed in Thiagi Subramania Siva Govt. Hr. Sec. School, Papparapatti by the District Educational Officer, Dharmapuri, the scale of pay for that post was mentioned as Rs.350-10-420-15-600, since earlier the said post was sanctioned as Hindi Pandit and subsequently based on the Government Order in G.O.Ms.No.785/Education dated 05.04.1977, the Hindi Pandit post was converted as Librarian and hence the petitioner is entitled to only the scale of pay of Junior Assistant from the date of his first appointment, hence, and the request of the petitioner could not be complied with and the same is rejected". The above order of the Government is in accordance with the Government Rules.

12. Heard the learned counsel on either side and perused the materials available on record.

13. In the case on hand, the petitioner was appointed as Librarian in Thiagi Subramania Siva Government Higher Secondary School for Boys,



Papparapatti on 20.07.1984 afternoon by the then fourth respondent vide Rc.No.4912/A1/1984 dated 16.07.1984 and his scale of pay was fixed as Rs.350-10-420-15-600. The petitioner was also awarded Bonus increment for completing 30 years of service in Librarian post on the afternoon of 28.07.2014 and retired from service on 31.05.2016. The petitioner had given a representation to the Higher Authorities of School Education Department only in the year 2016 i.e., 19.05.2016, which is just 10 days before his retirement on 31.05.2016 to fix his salary as Grade-III Librarian post from the date of appointment i.e., on 20.07.1984 in the scale of pay of Rs.400-15-490-20-650-25-700. This representation was given by the petitioner after three decades i.e., 32 years from the date of his initial appointment on 20.07.1984. The petitioner is well aware about the scale of pay for which he is entitled, since the same was mentioned in the appointment order of the fourth respondent in Rc.No.4912/A1/1984 dated 16.07.1984 indicating the scale of pay of Rs.350-10-420-15-600.

14. The petitioner accepted the appointment order dated 16.07.1984 and joined in Thiagi Subramania Siva Government Higher Secondary School for Boys, Papparapatti with effect from 20.07.1984 afternoon and he is well



W.P.No.4648 of 2020

aware about the scale of pay which is mentioned in the appointment order itself. If the petitioner had any doubt regarding the scale of pay mentioned in his appointment order, he should have approached the then fourth respondent soon after the receipt of the appointment order, before joining duty. The petitioner did not choose to challenge the said scale of pay by giving representation/objection and kept silent till the end of his service in the year 2016. Hence, this Court is of the considered view that this writ petition has to be dismissed on the ground of delay and laches.

15. In view of the above factual matrix of the case, this Court is not inclined to interfere with the order passed by the first respondent in Letter No.5556/S.E.4(1)/2019 dated 23.12.2019, which is liable to be confirmed and the same is hereby confirmed.

16. Accordingly, this writ petition stands dismissed. No costs.

14.11.2024 (vm)

Index : Yes/No

Page No.12 of 14



W.P.No.4648 of 2020

Speaking Order : Yes/No
Neutral Citation : Yes/No

WEB COPY

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School Education (S.E.4(1) Department,
Fort St.George, Chennai – 9.
- 2.The Director of School Education,
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Chennai – 600 006.
- 3.The Chief Educational Officer,
Dharmapuri District, Dharmapuri.
- 4.The District Educational Officer,
Dharmapuri District.

J.SATHYA NARAYANA PRASAD,J.

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WEB COPY



W.P.No.4648 of 2020

W.P.No.4648 of 2020

14.11.2024