



W.P.No.5438 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.5438 of 2024 and
WMP.No.6004 of 2024

D.Ahalya

... Petitioner

Vs.

- 1.Principal Secretary to Government,
School Education Department,
Secretariat,
Chennai 600 009
- 2.The Director of Elementary Education,
DPI Complex,
College Road,
Chennai 600 006
- 3.The District Educational Officer,
Bharathiyar Sallai,
Near Bharat Scouts,
Vellore – 632 001
- 4.The Block Educational Officer,
Katpadi,
Vellore 632 006

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India
praying to issue Writ of Certiorarified Mandamus calling for the records



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relating to the Impugned Order dated 28.06.2022 in Na.Ka.No.2368/A4/ 2021 issued by the 3rd Respondent and quash the same as illegal and arbitrary and further directing the respondents to consider the representations made by the petitioner on 04.08.2023 after considering G.O.Ms.No.25 Personnel and Administrative Reforms (FR.IV) Department dated 23.03.2015 and in the light of decision made by this Court in its order dated 01.06.2023 in W.P.Nos.17891 and 17892 of 2014 and thereby consequently direct the Respondents to step up the pay of the petitioner to her Junior N.Chamundeswari.

For Petitioner : Mr.V.P.Sengottuvel,
Senior Counsel
for Mr.K.R.Nishanth

For Respondents : Mrs.S.Mythreye Chandru,
Special Government Pleader

ORDER

The writ petition has been filed challenging the order dated 28.06.2022 on the file of the third respondent thereby rejected the request made by the petitioner to rectify pay anomaly on par with her junior.



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2. The petitioner was appointed as BT.Assistant on 14.09.2005. She was granted incentive increment upon passing M.A(English). Thereafter, she completed M.Phil. While being so, similarly appointed person one, M.Chamundeeswari also obtained incentive increment. As per the TRB ranking, seniority of the petitioner was fixed at No.9, whereas the said Chamundeeswari's seniority was fixed in serial No.559. The petitioner was promoted to the rank of Headmistress of a Middle School on 18.06.2014. Further, as per GO.Ms.No.303 dated 11.10.2017 and as per VII Pay Commission, the petitioner's salary was fixed as Rs.58,900/-. However, the said Chamundeeswari was not promoted to the post of Headmistress and she was granted Selection Grade and her salary was fixed at Rs.62,100/- from 01.06.2016. Thereafter, she was promoted to the post of Headmistress and her salary was fixed at Rs.66,300/- from 01.06.2017. In order to rectify the said anomaly, after considering several representations, the Government passed order in GO.Ms.No.25 Personnel and Administrative Reforms (FR.IV) Department dated 23.03.2015 for the purpose of bringing order to the disparity between the payment of salary made to



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senior and junior employees. It is also relevant to extract the relevant portion of the said Government Order hereunder:

"...5. The Government direct that in cases where Government servants who have been appointed / prompted to higher post without moving to Selection Grade / Special Grade in the lower post and there by happen to draw less pay than their junior who are appointed / prompted to the higher posts after moving to the Selection Grade / Special Grade of the lower posts, in the revised scales of pay, the pay of such senior should be fixed in the higher post equal to the pay of the Junior in the higher post with effect from the date of drawal of higher pay by the junior in the higher post subject to fulfilment of the following conditions:

i. Both the junior and senior officers should belong to the same cadre and the post in which they have been promoted or appointed should be identical and in the same cadre.

ii. The scale of pay of the lower and higher posts in which they are entitled to draw pay should be identical.

iii. The pay anomaly should be arising directly as a result of fixation of pay in the promotion post after



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fixation of pay in the Selection Grade / Special Grade of the lower post. For example, even if in the lower post the junior officer draws from time to time, a higher rate of pay than the senior by virtue of grant of advance increment, the provisions contained in this order should not be invoked to step up the pay of the senior officer, and

iv. The orders refixing the pay of the senior officers in accordance with the provisions of this order should be issued under Fundamental Rule 27. The next increment of the senior officer will be drawn on completion on the requisite qualifying service with effect from the date of refixation of the pay."

3. Therefore, the petitioner submitted representation and the same was not considered. As such, the petitioner approached this Court in WP.No.4860 of 2022 and this Court directed the respondents to consider the representation submitted by the petitioner and pass orders within a period of thirty days from the date of receipt of the order with other directions. However the petitioner was not given opportunity of hearing while considering her representation and rejected the request



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made by the petitioner by an order dated 28.06.2022.

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4. The learned counsel for the petitioner would submit that aggrieved by the above, already the petitioner submitted representation and it is pending on the file of the second respondent.

5. On perusal of GO.Ms.No.25 Personnel and Administrative Reforms (FR.IV) Department dated 23.03.2015 it is clear that in cases where Government servants who have been appointed / promoted to higher post without moving to Selection Grade / Special Grade in the lower post and thereby happen to draw less pay than their junior who are appointed / promoted to the higher posts after moving to the Selection Grade / Special Grade of the lower posts, in the revised scales of pay, the pay of such senior should be fixed in the higher post equal to the pay of the junior in the higher post with effect from the date of drawal of higher pay by the junior. Admittedly, the petitioner and her junior Chamundeeswari were appointed on the same day. As per the ranking of Teachers Recruitment Board, the petitioner was placed in serial No.9 and her junior Chamundeeswari was placed in serial No.559. However, the



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petitioner was promoted to the post of Headmistress and her junior was accorded Selection Grade. After obtaining Selection Grade, her junior was promoted to the post of Headmistress. Therefore, she is receiving higher salary than the petitioner. However, without considering the above, without giving any opportunity to the petitioner and without any reasons, the claim of the petitioner was rejected. It is against the order passed in GO.Ms.No.25 Personnel and Administrative Reforms (FR.IV) Department dated 23.03.2015.

6. In view of the above, the order impugned in this petition cannot be sustained and it is liable to be quashed. Accordingly, the impugned order dated 28.06.2022 of the third respondent is quashed. The third respondent is directed to pass orders to rectify the pay anomaly between the petitioner and the said Chamundeeswari as per GO.Ms.No.25 Personnel and Administrative Reforms (FR.IV) Department dated 23.03.2015 and disburse the arrears of salary within a period of eight weeks from the date of receipt of copy of this order.



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7. With the above direction, this writ petition stands allowed.

Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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Internet: Yes

Index: Yes/No

Speaking/Non-speaking order

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To

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G.K.ILANTHIRAIYAN, J.

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