



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.8128 of 2021

and

W.M.P.No.8695 of 2021

A.Gowri

... Petitioner

Vs.

1. The Chief Educational Officer,
Collectorate Buildings, Kancheepuram,
Kancheepuram District – 631 502.
2. The District Educational Officer,
Rani Annadurai School Campus,
Kanchipuram, Kanchipuram District – 631 502.
3. The Block Education Officer,
Sirukaveripakkam and Post,
Kanchipuram District – 631 551.
4. The Head Master,
Panchayat Union Middle School,
Melbangaram, Baluchetty Chatram Post,
Kanchipuram District – 631 605.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 3rd respondent passed in his proceedings



Na.Ka.No.260/A4/2018 dated 10.04.2018 which is reiterated in his proceedings Na.Ka.No.800/A3/ A4 / 2020 dated 28.1.2021 and quash the same and consequently direct the respondents to fix revised scales of pay as per re-option given by the petitioner on 17.10.2013 in terms of G.O(Ms) No.240 Finance (Pay cell) Department, dated 22.7.2013 with arrears of pay difference.

For Petitioner : Mr.P.Ebenezer Paul

For Respondents : Mr.K.H.Ravikumar,
Government Advocate

ORDER

The petitioner herein was initially appointed as 'Secondary Grade Teacher' on 02.08.1997 and thereafter, promoted to the post of 'Head Master' on 21.09.2011. Thereafter, the 6th Pay Commission recommendations came to be implemented with effect from 01.01.2006 and accordingly, the petitioner and other similarly placed persons were given opportunity to exercise their option to come over to the revised pay scales with effect from 01.01.2006. Accordingly, the petitioner exercised the option in terms of G.O (Ms) No.234, Finance (Pay Cell) Department, dated 01.06.2009 and her pay was accordingly revised. It is thereafter the Government issued another order in G.O (Ms) No.240, Finance (Pay Cell) Department, dated 22.07.2013



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giving an opportunity to exercise re-option to the employees who failed to exercise their option in terms of G.O (Ms) No.234 dated 01.06.2009. It is pursuant to the said Government Order dated 22.07.2013, the petitioner herein claims to have submitted her option on 17.10.2013 requesting for re-fixation of her pay. The said claim made by the petitioner is rejected by the respondents by issuing the impugned order dated 10.04.2018 and the same was reiterated again through another impugned proceedings dated 28.01.2021. It is aggrieved by the said proceedings, the petitioner approached this Court by filing the present Writ Petition.

2. No doubt, in the impugned orders, the respondents have assigned reasons as non-submission of re-option by the petitioner within the time stipulated under G.O (Ms) No.240 dated 22.07.2013 on the ground that there was no entry made in the Service Register of the petitioner of having submitted exercising any such re-option in terms of G.O (Ms) No.240 dated 22.07.2013. During the course of hearing and on persual of G.O (Ms) No.240 dated 22.07.2013, it is noticed that the right to exercise re-option in terms of the said Government Order is available only to the persons who failed to exercise their option in terms of G.O (Ms) No.234 dated 01.06.2009.



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3. From the counter-affidavit filed by the respondents and from other materials available on record, it is an admitted fact that the petitioner herein has exercised re-option in terms of G.O (Ms) No.234 dated 01.06.2009 and her pay is also revised accordingly. Once it is concluded that the petitioner has already exercised her option under G.O (Ms) No.234 dated 01.06.2009, the question of giving another opportunity to the petitioner in terms of G.O (Ms) No.240 dated 22.07.2013 does not arise. Therefore, even if the reason given in the impugned order is found to be incorrect, the consequential relief sought for in the present Writ Petition to act upon the re-option alleged to have been exercised by the petitioner does not arise for the above reasons.

4. Then coming to the contention of the petitioner that another person who is similarly situated like the petitioner viz., Mr.R.Alimuthu was given the benefit of above re-option in terms of G.O (Ms) No.240 dated 22.07.2013 though he was also similarly placed like the petitioner and the petitioner is drawing a lesser pay than the said Mr.R.Alimuthu is concerned, the petitioner is granted liberty to submit appropriate representation before the Respondent



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No.3 bringing to his notice about the grievance of the petitioner of drawing lesser pay than the said Mr.R.Alimuthu. Further, in case if the petitioner has got any grievance in respect of any erroneous fixation of her pay pursuant to the option exercised by her in terms of G.O (Ms) No.234, it is also open to the petitioner to bring to the notice of the Respondent No.3. In case if the petitioner makes any such representation before the Respondent No.3, the Respondent No.3 shall consider the same and pass appropriate orders in accordance with law.

5. In the light of the above, this Court is not inclined to interfere with the impugned orders and accordingly, the Writ Petition is disposed of subject to the above observations. No costs. Connected Miscellaneous Petitions, if any shall stand closed.

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skr
Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No



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