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W.P.No.2358 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **24.06.2024**

CORAM

THE HONOURABLE Ms. JUSTICE **P.T.ASHA**

W.P.No.2358 of 2016
and
W.M.P.No.2037 of 2016

A.Soundaram

... Petitioner

-VS-

1.The Government of Tamil Nadu,
represented by Secretary to Government,
Government of Tamil Nadu,
School Education Department,
Secretariat, Chennai – 600 009.

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

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

4.The Chief Educational Officer,
Namakkal District, Namakkal.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the 4th respondent issued in



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Na.Ka.No.6497/A2/2002 dated 20.09.2006 and quash the same and issue a consequential direction to the respondents to extend the benefits of the G.O.(4D) No.10 School Education (D2) Department dated 09.03.2012 and G.O.(2D) No.70 School Education (Nee.Va.3 (2) Department dated 12.11.2014 and treat the petitioner as B.Ed.Middle School Headmaster and grant higher scale of pay from 01.06.1988 with selection and special grade scales of pay and to grant consequential arrears as well as pension to the petitioner.

For petitioner : Mr.R.Saseetharan

For respondents : Mrs.P.Rajarajeswari,
Government Advocate

ORDER

The writ petitioner was appointed as B.Ed. Middle School Headmaster at the Panchayat Union Middle School, Chandrasekarapuram, and then transferred as B.Ed. Middle School Headmaster to the Panchayat Union Middle School, Manali Jadderpalayam. Thereafter, the school was upgraded as a Government High School from that of Panchayat Union Middle School. Therefore, the petitioner was absorbed as B.T.Assistant



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from the post of B.Ed. Middle School Headmaster at Government High School, Manali Jadderpalayam, with effect from 24.09.1984.

The petitioner was, superannuated on 30.06.2004 as B.T.Assistant.

2. The petitioner would submit that the Government had ordered higher scale of pay for the post of B.Ed. Middle School Headmasters. In view of the absorption and in view of revision of pay with effect from 01.06.1988 as per the recommendations of the V Pay Commission, the B.Ed. Middle School Headmasters who were absorbed as B.T.Assistants in the High Schools lost their higher scale of pay. Consequently, the Government of Tamil Nadu had issued instructions in Letter dated 15.06.1988 to the effect that on upgradation of Middle Schools into that of Government High Schools and on absorption of the teachers and non-teaching staff in the Government High Schools, their scale of pay should not be reduced and that the post of B.Ed. Middle School Headmaster on such absorption should not be renamed.



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3. Thereafter, the Director of School Education, by his proceedings dated 13.12.1991, had communicated that the absorbed B.Ed. Middle School Headmasters would be entitled to Selection Grade and Special Grade scales of pay in the post of B.Ed. Middle School Headmaster. Several applications had been filed before the Tamil Nadu Administrative Tribunal by the B.T.Assistants to have their pay protected as B.Ed.Middle School Headmaster. The Administrative Tribunal had passed an order that in view of the revision of higher scale of pay to the post of B.Ed. Middle School Headmaster by reason of the V Pay Commission, the B.Ed. Middle School Headmasters who were absorbed as B.T.Assistants were entitled to the higher scale of pay.

4. Recognizing the fact that it is difficult for the Government to accommodate all the Middle School Headmasters who were working as B.T.Assistants, the Administrative Tribunal



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had ordered that those absorbed B.Ed. Middle School Headmasters shall be given the same benefit as if they continued as Headmasters and consequential monetary benefits such as Selection Grade and Special Grade, including increments, till their retirement. None of these orders had been challenged by the respondents.

5. However, the respondents failed to implement the said orders. The repeated reminders also did not yield the desired result. After the aforesaid orders were passed, this Court had also passed an order directing the respondents to implement the orders passed by the Administrative Tribunal. However, the same has not been done. The writ petitioner's request had been rejected by the Chief Educational Officer, Namakkal, Namakkal District, by the impugned order dated 20.09.2006. Therefore, the present writ petition came to be filed.

6. The respondents have not seriously contested the fact



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that the earlier orders of this Court and the Government Orders have not been complied with by them. The respondents would submit that since the post of Primary School Headmasters and Middle School Headmasters carry different scales of pay and different educational qualifications were prescribed for the two posts, counting of one service into another service is against all canons of law and therefore, they sought to have the petition dismissed.

7. Admittedly, the respondents have not challenged the order dated 25.07.2006 passed in W.P.Nos.23437 to 23440 of 2006, wherein, this Court has directed as follows.

“2. Without going into the merits of the case, suffice it to direct the respondent to implement the orders of the Tribunal passed in O.A.Nos.3455, 3458, 3456 and 3457 of 2002 dated 24.06.2002 within a period of four weeks from the date of receipt of a copy of this order.”



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8. The impugned order had been passed on the basis of the order passed by the Delhi High Court, which observed that the respondents who were absorbed in Government service ceased to be a part of the cadre of teachers serving in schools run by the Panchayat Union and merely because their past services were counted for the purpose of protecting their 'Pay', it cannot be said that they would continue in the same cadre. Therefore, the respondents have not only failed to implement the order of the Administrative Tribunal, but, also sought to circumvent the judgment of this Court by referring to judgment passed by the Delhi High Court.

9. The strategy adopted by the respondent authorities has to necessarily be deprecated. Having suffered an order and not challenging the same, the respondents are precluded from not implementing the order of the Administrative Tribunal. The



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respondents have not come forward with any valid and legal reasons for not implementing the order of the Administrative Tribunal.

Therefore, the writ petition is allowed as prayed for.
Consequently, connected W.M.P. stands closed. No costs.

24.06.2024
(2/4)

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
ssa

To

- 1.The Secretary to Government,
Government of Tamil Nadu,
School Education Department,
Secretariat, Chennai – 600 009.
- 2.The Director of Elementary Education,
College Road, Chennai – 600 006.
- 3.The Director of School Education,
College Road, Chennai – 600 006.



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4.The Chief Educational Officer,
Namakkal District, Namakkal.



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P.T.ASHA, J.,

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