



W.P.No.25986 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.07.2024

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.25986 of 2014

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W.M.P. No. 22161 of 2018

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M.P. No. 1 of 2014

S.Ponnagesa

...Petitioner

Vs.

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

2.The District Elementary Educational Officer,
Krishnagiri District, Krishnagiri.

3.The Additional Assistant Elementary Educational Officer,
Hozur Panchayaat Union,
Hozur Krishnagiri District.

...Respondents



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Prayer: Writ Petition is filed under Article 226 to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in relation to the proceedings issued in Na.Ka.No.271/A6/2014 dated 05.09.2014 and quash the same and issue a consequential direction to the respondents to continue the pay of the petitioner as fixed in the proceedings issued in Na.Ka.No.3374/A4 dated ... 05.2013 of the 2nd respondent and in proceedings No.Moo.Moo.No.1612/A4/2012 dated 27.05.2013 of the 3rd respondent.

For Petitioner : Mr. R.Saseetharan

For Respondents : M/s. P.Rajarajeswari
Government Advocate.

ORDER

The petitioner has moved this Court seeking to quash the order of the 2nd respondent in his proceedings in Na.Ka.No.271/A6/2014 dated 05.09.2014 and consequentially direct respondents to continue to pay the petitioner as per proceedings in Na.Ka.3374/A4 of the 2nd respondent and in proceedings No.Moo.Moo.No.1612/A4/2012 dated 27.05.2013 of the 3rd respondent. The facts are briefly set out herein below.



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2. The petitioner was appointed as a Secondary Grade Teacher on 11.07.1988 in Hosur Panchayat Union, Krishnagiri District in Telugu medium School. The petitioner's post as a Secondary Grade Teacher was regularised from 11.07.1988 and his probation was declared successfully on 11.07.1990. The next avenue of promotion for Secondary Grade Teacher is the post of Primary School Headmaster and the post of Middle School Headmaster. The post of B.Ed Middle School Headmaster comes under Class I, Category 1 of Tamil Nadu Elementary Educational Subordinate Service Rules and the qualification prescribed is degree with B.Ed.

3. The petitioner would submit that he acquired 3 years BA degree from the Madras University in October 1995 and B.Ed in 1998 thereby he became eligible for promotion for the post of B.Ed Middle School Headmaster. The petitioner had also acquired MA degree and therefore he was granted an incentive increment for B.Ed qualification on 08.11.1988 and MA qualification on 03.01.2002.



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4. On 31.05.2000, the petitioner was promoted as B.Ed Middle School Headmaster and posted at Panchayat Union Middle School, Chennachandhiram. Thereafter, for want of vacancy since the middle school was upgraded to a High School he was reverted to the post of Secondary Grade Teacher on 25.08.2000. Thereafter, on 04.07.2001, the petitioner was once again promoted as B.Ed Middle School Headmaster, from which post he was once again reverted to the post of Primary School Headmaster on 03.06.2002 once again for want of vacancy.

5. The petitioner was for the third time promoted as a Middle School Headmaster on 05.07.2005 and posted at the Panchayat Union Middle School, Bedarapalli, Hozur, in which post he continues.

6. The grievance of the petitioner is that his junior one



Gouramma was promoted as a Middle School Headmaster on 28.06.2010 and she was granted incentive increment for B.Ed degree on 28.01.2008 and MA on 06.01.2011 at a higher rate under the VII Pay Revision of Scale. The said Gouramma had also got her pay fixed in the post of Middle School Headmaster on 01.07.2010. The petitioner was drawing more pay than the said Gouramma in the post of B.Ed Middle School Headmaster, however, with effect from 01.07.2010 the petitioner's pay was fixed at Rs.21,640/-, whereas the said Gouramma's pay was fixed at Rs.23,620/-, this anomaly arose on account of the introduction of revised scale of pay for 7th time with effect from 01.06.2006.

7. The petitioner would submit that as on 01.01.2011 in the seniority list for the post B.Ed Middle School Headmaster for Telugu medium for Hozur Panchayat Union he was shown at rank No.10, whereas the said Gouramma was shown at rank No.20. In the seniority list on 01.01.2014 for the post of middle school headmaster, he was shown at rank No.8 and the said Gouramma was shown at rank No.13.



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Therefore, it is the contention of the petitioner that his pay has to be stepped up on par with his junior. Thereafter, the petitioner's pay was also stepped up to the level of his junior.

8. While so, on 05.07.2011 the District Elementary Officer issued show cause notice as to why the stepping up of the pay should not be cancelled within a period of 7 days. In the said notice, the District Elementary Educational Officer stated that in the proposal dated 29.10.2012 it has been stated that the said Gouramma was initially appointed as Secondary Grade Teacher at Soolagiri Panchayat Union. Thereafter, transferred to Hozur Panchayat Union as Secondary Grade Teacher. Therefore, as per date of appointment she cannot be termed as a Junior.

9. The petitioner had given a detailed explanation on 14.07.2014 to the District Elementary Educational Officer in which he had stated that the said Gouramma was transferred to Hozur Panchayat Union as a Secondary Grade Teacher and cannot have her seniority fixed as per



date of appointment in another unit. The petitioner had also pointed out that the qualification that had been obtained by the said Gouramma was much after that of the petitioner and therefore the pay anomaly had to be rectified and the rectification has been correctly done.

10. However, without considering the explanation, the District Elementary Educational Officer proceeded to pass the impugned order dated 05.09.2014 cancelling the pay which had been stepped up to the level of junior and directed Additional Assistant Elementary Officer to refix the petitioner's salary and recover excess amount. Against this order, the petitioner has filed the above writ petition.

11. In the counter, the only plea that has been taken is that the said Gouramma's first appointment was in different unit and she has been transferred to the Hozur Panchayat. Since the appointment of both the petitioner and the said Gouramma were in different units, the petitioner cannot compare the said Gouramma as his junior. This forms the main defense of the respondents. Therefore, this Court by order



dated 25.06.2024 directed the respondents to produce the seniority list for the period 2011, 2012, 2023 and 2024. Accordingly, the said seniority list has been produced.

12. In the seniority list on 01.01.2011 the petitioner is featured at S.No.10 and the said Gouramma at S.No.20. On 01.01.2015, the petitioner is featured at S.No.8 and the said Gouramma at S.No.13. Therefore, even on the date of the filing of the Writ Petition the petitioner was very much senior to the the said Gouramma as per list of the respondents relating to Middle School Headmaster. That apart, it is seen that a common seniority list has been prepared and not separate seniority lists for different units.

13. Therefore, the order cancelling the stepping up of the petitioner's pay scale to the tune with that of the Junior is totally illegal and arbitrary as the reason given is not supported by their own seniority list. Therefore the impugned order is quashed and the Writ Petition is allowed with a direction to the respondents to restore the order in



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Na.Ka.No.3374/A4 of the 2nd respondent and in proceedings
No.Moo.Moo.No.1612/A4/2012 dated 27.05.2013 of the 3rd
respondent. Consequently, the connected Miscellaneous Petitions are
closed. No costs.

04.07.2024

Index : Yes/No
Internet : Yes/No
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To

1.The Director of Elementary Education,

9/11



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College Road, Chennai – 600 006.

2.The District Elementary Educational Officer,
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P.T. ASHA, J,

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