



W.P.No.29986 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **09.07.2024**

CORAM

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

W.P.No.29986 of 2014

and

M.P.No.1 of 2014

S.Ilamperuvazhuthi

... Petitioner

-VS-

1.The District Educational Officer,
Tiruppur,
Tiruppur District.

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

3.The Head Master,
Government High School,
Naduvelampalayam,
Tiruppur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling



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for the records of the 3rd respondent in proceeding bearing Na.Ka.No.241/2014-15 dated 08.11.2014 and quash the same.

For petitioner : Mrs.Dakshayani Reddy,
Senior Counsel for Mr.S.Mohan

For respondents : Mrs.P.Rajarajeswari,
Government Advocate

ORDER

The only issue involved in the above writ petition is whether the pay granted in the earlier time scale should be taken into consideration while fixing the pay in the Selection Grade Scale of pay to the petitioner who had been selected as Secondary Grade Teacher by the Teachers Recruitment Board and joined the services at the Panchayat Union Middle School, Thottamanchi, Krishnagiri District.

2. The petitioner would submit that he had joined the service on 16.03.2000 as a Secondary Grade Teacher in R.P.Middle



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School, Bodi Meenakshipuram, Theni District, which is a Government Aided School and served there till 22.12.2009. Thereafter, he was selected as Secondary Grade Teacher by the Teachers Recruitment Board and he joined in Panchayat Union Middle School, Thottamanchi, Krishnagiri District. He was promoted as B.T.Assistant with effect from 23.07.2012 and with effect from 11.02.2014, he served as B.T.Assistant in the Government High School, Naduvelampalayam, Palladam Block, Tiruppur District.

3. The petitioner would submit that by reason of he moving to the Selection Grade of Pay, his ordinary Scale of Pay of Rs.5,200 – 20,200 + G.P. Rs.2,800/- had increased to Rs.9,300 – 34,800 + G.P. Rs.4,300/- with effect from 16.03.2010. The scale of pay was also fixed by the second respondent by his proceedings dated 30.11.2013 at Rs.9,860 + G.P. Rs.2,800 + one increment at 3% worked out to a sum of Rs.13,040/- with effect from 16.03.2010.



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The petitioner had got all the subsequent increments and arrears of pay consequent to his movement to the Selection Grade.

4. While so, owing to audit objection, the third respondent had issued an order dated 08.11.2010. The audit objection would state that the petitioner is not entitled to get his pay fixed at Rs.13,040/- and only entitled to the basic pay of Rs.9,000/- treating the petitioner as a fresh appointee and the excess amount was also directed to be recovered. Therefore, the petitioner had come forward with the above writ in question.

5. The first respondent had filed a counter reiterating the stand taken by the Audit Department, in which, they had stated that on the basis of the various Government Orders, the petitioner's pay had been erroneously fixed at Rs.9,300 – 34,800 + G.P. Rs.4,300/- on 16.03.2010 instead of sanctioning one increment of 3% on the basic pay and grade pay. The contention of the first respondent is



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that the petitioner is eligible totally to a pay of Rs.15,650/-, whereas, due to oversight, the petitioner's scale of pay was erroneously fixed as Rs.14,830/- + G.P. Rs.4,600/- totally Rs.19,430/-.

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

7. This issue has been set at rest by a judgment dated 10.07.2023 of a Division Bench of this Court in a writ appeal in W.A.No.3055 of 2019 [*The Director of Elementary Education Officer and others vs. D.Selvarosebai*], wherein, a similar issue had arisen. The Division Bench, after considering G.O.No.992 dated 22.06.1979, held that no matter where the teacher was working whether in the Government School or Panchayat Union School or Municipality or Corporation School, the service rendered in that school has to be taken into account for the purpose of conferring Selection Grade or Special Grade after 10/20 years respectively. The



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Division Bench of this Court observed as follows:

“13.Here, the only question is that, while conferring such special grade on 03.06.2008, whether the 3% increment has to be given based on the basic pay that was drawn by the teacher prior to the teacher shifted to the Government School or based on the basic pay that has been fixed after she joined in the Government School / Panchayat Union School after 01.01.2006.”

Ultimately, the Division Bench also observed that when balance is drawn between G.O.No.234 and G.O.No.992, both should go in unison to regulate the fixation of Selection Grade and Special Grade, taking into account the total service of the teacher, including his service in private school or management school and the total service rendered should be taken into account and the actual pay so fixed should not get affected or reduced.



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8. Therefore, in the light of the above, the order impugned has to be necessarily quashed and is accordingly, quashed.

With the above directions, this writ petition stands allowed.

Consequently, connected M.P. stands closed. No costs.

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

To

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P.T.ASHA, J.,

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