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W.A.No.2684 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.A.No.2684 of 2022 and
C.M.P.No.21738 of 2022

1. The District Elementary Educational Officer,
Dharmapuri, Dharmapuri District.
2. The Assistant Elementary Educational Officer,
Pappirreddipatti, Dharmapuri District.

... Appellants/Respondents

-VS-

Tmt.V.Tamilmani

... Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 22.03.2021 made in W.P.No.28659 of 2017.

For Appellants : Mr.P.Muthu Kumar
Addl. Advocate General
Assisted by Mr.V.M.Ravichandran
Spl.Govt.Pleader

For Respondent : Mr.P.Ganesan

J U D G M E N T

(By D.Krishnakumar,J.,)

This Writ Appeal has been filed, challenging the order of the learned Single Judge dated 22.03.2021 passed in W.P.No.28659 of 2017, by which the Writ



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Petition filed by the Writ Petitioner/respondent herein was disposed of and remanded back to the respondents therein for passing appropriate orders in the light of the order dated 07.02.2018 of the Madurai Bench of this Court as well as the proceedings dated 28.06.2018.

2. It is the case of the Appellants that the Writ Petitioner/Respondent herein submitted a representation dated 22.08.2016 for stepping up her pay on par with one K.Pazhanisamy, who is junior to her and her request was rejected on 09.05.2017. Against the said rejection order, the Writ Petition filed by the respondent herein was disposed of by the learned Single Judge, without appreciating the facts that a Senior belonging to a particular cadre post cannot claim benefits on par with his/her junior working in another appointment unit. It is further case of the appellants that the Director of Elementary Education had already issued instructions on 11.08.2016 in Rc.No.16907/E1/2016 to that effect, in terms of which, the question of pay anomaly will arise, only if both of them are appointed in the same Unit.

3. Learned Additional Advocate General for the appellants submitted that in a similar case in W.A.No.78 of 2021, the Department had challenged the orders of the Division Bench of this Court and the same is pending before the Apex Court.



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4. Per contra, learned counsel for the respondent contended that the yet another appeal preferred by the Department against the judgment of the Division Bench of this Court made in W.A.No.1382 of 2021 (similar in nature), was dismissed by the Supreme Court on 16.09.2022 in Special Leave to Appeal (C) No.8282 of 2022, with an observation that the question of law is kept open to be decided in an appropriate case and he has also produced a copy of the said judgment before this Court.

5. The order dated 09.05.2017 impugned before the Writ Court is not a reasoned order in respect of the scale of pay claimed by the Writ Petitioner on par with her junior. The learned Single Judge has allowed the Writ Petition, by relying upon the earlier order of the Madurai Bench of this Court dated 07.02.2018, which, in our opinion, does not suffer from any infirmity and there is no valid ground made out by the appellants to interfere with the order of the learned Single Judge.

6. In view of the submission made by the learned counsel for the respondent and in the light of the observation made by the Supreme Court in the case (supra), this Writ Appeal is disposed of, with a direction to the appellants herein to consider the claim of the respondent in accordance with law, bearing in mind the decisions rendered by the Division Bench of this Court dated 19.08.2021 in



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W.A.No.1382 of 2021 and the Supreme Court in Special Leave to Appeal (C) No.8282 of 2022 dated 16.09.2022 and pass orders suitably with regard to settlement of her monetary benefits, within a period of twelve weeks from the date of receipt of a copy of this judgment. No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K., J.,] [K.B., J]
27.06.2024

Index: Yes / No
Internet: Yes / No
Speaking Order/Non Speaking Order
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