



W.P.No. 32711 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2024

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.32711 of 2024

and

W.M.P.Nos.35550 and 35552 of 2024

P. Suresh

.. Petitioner

Versus

1. State of Tamil Nadu,
Represented by its Principal Secretary to Government,
School Education Department,
Fort St. George, Secretariat,
Chennai 600 009.

2. The Director of School Education,
DPI Campus, College Road, Chennai – 600 006.

3. The Chief Educational Officer,
Presidency Girls Higher Secondary School Campus,
Egmore, Chennai – 600 008.

4. The District Educational Officer (Secondary)
Chennai North,
SIDCO Nagar, Villivakkam,
Chennai 600 049.

5. The Secretary,



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P.A.K. Palanisamy Higher Secondary School,
Washermenpet, Chennai 600 021.

...Respondents

Prayer: This petition is filed under article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating the impugned order issued by the 4th respondent in O.Mu.No.2534/Aa5/2024 dated 08.05.2024 and the subsequent impugned order issued by the 3rd respondent in O.Mu.No.2887/Aa3/2024 dated 15.05.2024 and to quash and consequently direct the Respondents 3 and 4 to approve the promotion of the petitioner in the post of P.G.Assistant with effect from 23.06.2019/24.06.2019 and by resorting the Special Grade granted in the post of B.T.Assistant as per the orders of the District Educational Officer, Chennai East in Na.Ka.No.2727/A5/2019 dated 22.07.2019 with all consequential and other attendant benefits, including payment of arrears of salary from the date of promotion and pass orders.

For Petitioner : Mr.G. Sankaran Sr.Advocate for
Mr.S. Neduncheziyan

For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader



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ORDER

This writ petition is filed seeking to issue a Writ of Certiorarified Mandamus to call for the records relating the impugned order issued by the 4th respondent in O.Mu.No.2534/Aa5/2024 dated 08.05.2024 and the subsequent impugned order issued by the 3rd respondent in O.Mu.No.2887/Aa3 /2024 dated 15.05.2024 and to quash and consequently directing the Respondents 3 and 4 to approve the promotion of the petitioner in the post of P.G.Assistant with effect from 23.06.2019/24.06.2019 and by resorting the Special Grade granted in the post of B.T.Assistant as per the orders of the District Educational Officer, Chennai East in Na.Ka.No.2727/A5/2019 dated 22.07.2019 with all consequential and other attendant benefits, including payment of arrears of salary from the date of promotion and pass orders.

2. The case of the petitioner is that the petitioner was appointed as B.T.Assistant in Jamalia Higher Secondary, Perambur, Chennai on 11.06.1999 and he was sanctioned with the selection grade for the post of B.T.Assistant in the year 2009. Thereafter, on completion of 20 years of



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service i.e on 23.06.2019 he was eligible for grant of special grade. In the mean time there was a vacancy for the post of P.G.Assistant due to retirement of one G.Appavoo, hence the 5th respondent school issued order dated 03.06.2019, promoting the petitioner to the post of P.G.Assistant(Maths) in the existing vacancy. Subsequently the 4th respondent District Educational Officer, Chennai East issued orders dated 22.07.2019 sanctioning special grade in the post of B.T.Assistant with fixation of pay in the post of P.G.Assistant with effect from 23.06.2019. It is pertinent to note that the 3rd respondent Chief Educational Officer issued order dated 26.09.2020, approving the promotion given to the petitioner to the post of P.G.Assistant (Maths). When this being the case after a lapse of two years the District Educational Officer, Chennai East issued proceedings dated 05.08.2021 stating that the claim for fixation of pay in the post of P.G.Assistant after reaching special grade in the post of B.T.Assistant cannot be considered, since the C.E.O issued orders dated 26.09.2020 approved petitioner's promotion to the post of P.G.Assistant with effect from 03.06.2019. Aggrieved over the same the petitioner has come up with this petition.



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3. The learned counsel for the petitioner submitted that the petitioner has made a representation to the Department through proper channel for restoration of petitioner's special grade as well as fixation of pay in the post of P.G.Assistant with effect from 23.06.2019. It is pertinent to note that in the said representation he has specifically stated that the petitioner will sustain huge monetary loss in fixation of pay in post of P.G.Assistant as he has completed 19 years of service. Hence, prays to allow this petition.

4. The learned Special Government Pleader appearing for the respondents submitted that the 3rd and 4th respondents vide order dated 08.05.2024 and 15.05.2024 has categorically stated that as the petitioner was granted promotion with effect from 03.06.2019, the fixation of pay in the post of Special Grade B.T.Assistant was made by mistake and it was directed to re-pay the excess salary of Rs.80,319/-. Therefore, the 4th respondent/school is directed to recover the excess salary paid to the petitioner. Hence, prays to dismiss this petition.



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5. Heard both sides and perused the materials available on record.

6. After weighing the rival contention and in view of the certain points raised by the learned counsel for the petitioner and considering the facts and circumstances of the case, this Court is of the considered opinion that the fourth respondent can re-appreciate the facts of the case once again. Therefore, the orders passed by the 4th respondent in O.Mu.No.2534/Aa5/2024 dated 08.05.2024 and the subsequent impugned order passed by the 3rd respondent in O.Mu.No.2887/Aa3/2024 dated 15.05.2024 is hereby set aside and the matter is remanded back to the third respondent for fresh disposal as per law. The third respondent/ Chief Educational Officer is directed to give adequate opportunity for the petitioner to substantiate his case and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this Order.



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7. With the aforesaid direction, this writ petition is disposed of. No order as to costs. Consequently, the connected miscellaneous petitions are closed.

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Speaking order : Yes/No
Neutral citation : Yes/No
Index : Yes/No
smn

To

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Chennai 600 009.
2. The Director of School Education,
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V.BHAVANI SUBBAROYAN, J.

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