



W.P.No.1868 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.1868 of 2017

M. Sumathi

... Petitioner

Vs.

1. The District Elementary Educational Officer,

Room No.302,

DEE Office,

Collectorate, Salem – 1

2. The Assistant Elementary Educational Officer,

Nangavalli- 636 454

Salem District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, to issue Writ of Certiorarified Mandamus calling for the records relating to the order of rejection in A.Thi.Mu.No.1089/A2/2016 dated 19.12.2016 on the file of the 2nd respondent and to quash the same and direct the respondents to accord 6% increment applicable to the selection grade teacher.



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For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.S.Prabhakaran
Government Advocate

ORDER

Though the writ petition was disposed on 09.08.2024 itself, as the court needed clarification on certain aspects it was listed for clarification today (10.09.2024). After hearing the learned counsel for both sides on the point of clarification, the following order is passed:-

2. This writ petition has been filed, seeking to call for the records relating to the order of rejection in A.Thi.Mu.No.1089/A2/2016 dated 19.12.2016 on the file of the 2nd respondent and to quash the same and direct the respondents to accord 6% increment applicable to the selection grade teacher.

3. The petitioner states that she was appointed as a Secondary Grade Teacher on 06.12.1990 and was promoted as a Primary School Head Master on 29.09.2005 and later promoted as a Middle School Head Master on 31.08.2013 and was working as a Head Master Middle School up to 31.01.2014. Thereafter, the petitioner was demoted to the post of Head Master, Primary School for want



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of vacancy, in which post, she worked up to 04.10.2015. Later, she was promoted as Head Master, Middle School. As she had completed 10 years and 6 days in the selection grade, as Head Master, Primary School she was entitled for 6% increment, applicable to the selection grade teachers. The petitioner represented to the 2nd respondent to grant her 6% increment as she completed 10 years as selection grade Head Master, Primary School. But, the said representation of the petitioner was rejected by the 2nd respondent by the impugned order dated 19.12.2016 on grounds, *inter alia*, that the petitioner had been demoted to the lower post on 31.01.2014 and thus the petitioner had not completed 10 years of service as Head Master, Primary School. Challenging the said impugned order dated 19.12.2016 the petitioner filed the writ petition.

4. The respondents filed a counter affidavit justifying the impugned order and reiterating the fact that the petitioner had not completed 10 years of continuous service in the post of Primary School Head Master and therefore she was not entitled for selection grade in the post of Primary School Head Master. It was further submitted that the concept of the scheme of granting selection grade and special grade was to grant concession to those who were stagnated in a particular post for more than 10 years or 20 years. As the petitioner was promoted as Middle School Head Master even before completing 10 years of



service in the post of Primary School Head Master the question of granting selection grade in the post of Primary School Head Master did not arise.

5. The learned counsel for the petitioner submitted that the petitioner made a request to the 2nd respondent to grant her 6% increment as a selection grade teacher in the post of Primary School Head Master, but the 2nd respondent passed the impugned order rejecting the petitioner's request stating that the petitioner had been demoted to the lower post on 31.01.2014 and thus the petitioner had not completed 10 years of continuous service as Primary School Head Master. The learned counsel submitted that the respondent failed to note that the petitioner was not claiming 6% increment in selection grade as Middle Head Master but was claiming it as selection grade Primary School Head Master and therefore the letter No.20159/86-3, P&AR, dated 16.02.1987, attached to G.O.Ms.No.68, Personnel & Administrative Reforms (PER-M) Department, dated 23.01.1986 applied to her case.

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

7. The petitioner was initially appointed as Secondary Grade Teacher on 06.12.1990 and subsequently promoted as Primary School Head Master on



29.09.2005. The petitioner worked as Primary School Head Master till 31.08.2013 and on the same day was promoted as Middle School Head Master in which post she continued till 31.01.2014. On 31.01.2014, the petitioner was demoted to the post of Primary School Head Master and she worked up to 04.10.2015 in the said post. The petitioner was thereafter promoted as Head Master, Middle School on 05.10.2015. While so, petitioner made request on 21.11.2016 to the 2nd respondent to grant her 6% increment treating her as Selection grade Head Master. The 2nd respondent vide impugned order dated 19.12.2016 rejected the petitioner's request on the grounds *inter alia* that she had not completed 10 consecutive years in the post of Head Master, Primary School and also that there was difference in the grade pay of Elementary School Head Master and Middle School Head Master and hence it was not possible to grant the increment either in the Elementary School Head Master post or Middle School Head Master Post.

8. As rightly submitted by the learned counsel for the petitioner the impugned order was passed in total ignorance of G.O.Ms.No.68, Personnel & Administrative Reforms (PER-M) Department, dated 23.01.1986 and the attached letter dated 16.02.1987. The 6% increment was granted by the Government under G.O.Ms.No.68, Personnel & Administrative Reforms (PER-



M) Department, dated 23.01.1986. To the said G.O, the letter no.20159/86-3, P&AR, dated 16.02.1987 is attached. The said letter provides that the service rendered in an equal and higher post can also be taken into account for Computing 10 years period for awarding Selection Grade/Special Grade provided that the service is taken in to account for the purpose of increment in the lower post. As the petitioner has claimed 6% increment in the lower post of Primary School Head Master, she is entitled for taking her service as Middle School Head Master for computing the period of 10 years. Therefore the said letter squarely applies to the petitioner's case. As the respondents have not taken into consideration the letter dated 16.02.1987, in my view, the impugned order cannot be sustained and therefore the same is set aside. The respondents are directed to consider the representation of the petitioner dated 22.11.2016 on the basis of G.O.Ms.No.68, Personnel & Administrative Reforms (PER-M) Department, dated 23.01.1986 along with the letter dated 16.02.1987 and pass orders on merits in accordance with law within a period of three (3) weeks from the date of receipt of a copy of this order.

9. Writ petition is accordingly disposed of with the aforesaid directions. No costs.



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dpq/dsn

Index : Yes /No

Speaking Order : Yes/No

Neutral citation : Yes/No

To

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Room No.302,
DEE Office,
Collectorate, Salem – 1

2. The Assistant Elementary Educational Officer,
Nangavalli 636 454
Salem District.

N. MALA, J.

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