



W.A.No.615 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2024

CORAM :

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE C.SARAVANAN**

**W.A.No.615 of 2024 and
C.M.P.No.4331 of 2024**

1.The Government of Tamil Nadu,
Rep by its Secretary, School Education Department,
Fort St.George, Chennai – 600 009.

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

3.The Chief Educational Officer,
Saidapet, Chennai 600 015.

4.The District Educational Officer,
Chennai East, Chennai 600 002.

... Appellants

Vs.

1.A.Fareeda Begum

2.The Correspondent,
Murthuzaviya Oriental Higher Secondary School,
Triplicane, Chennai – 5.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent against the order dated 23.02.2023, passed in W.P.No.4493 of 2018.



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For Appellants : Mr.R.Neelagandan, AAG
assisted by
Mr.V.M.Ravichandran, Spl GP

For R1 : Mr.P.Ebenezer Paul

For R2 : No appearance

J U D G M E N T

(Order of the Court is made by *R.SURESH KUMAR, J.*)

This Writ Appeal has been directed against the order passed by the Writ Court dated 23.02.2023, passed in W.P.No.4493 of 2018.

2.That the petitioner had been working as a Secondary Grade Teacher at the School called Murthuzaviya Oriental Higher Secondary School, Triplicane, Chennai – 5. She had acquired the qualification of B.Ed degree to hold the post of B.T.Assistant. Accordingly, she made a request to give the pay meant for the B.T.Assistant, i.e., B.T.Assistant scale of pay. That her request dated 11.12.2017 had been rejected by the Chief Educational Officer, Chennai/the third appellant herein by an order dated 23.01.2018, where the following has been stated.

சென்னை-5, திருவல்லிக்கேணி, மூர்து
சேவியா ஓரியண்டல் மேல்நிலைப் பள்ளியில்
இடைநிலை ஆசிரியராகப் பணிபுரியும் A.பரீதாபேகம்
என்பவர் 01.06.2006 முதல் பி.எட்., கல்வித்



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தகுதிக்கு ஊதியம் வழங்கிட கோரி பெறப்பட்ட
கடிதத்தை பரிசீலிக்கப்பட்டதில் மனுதாரர்
நீதிமன்றத்தில் வழக்குத் தொடராத நிலையில்,
வேறொருவர் தொடுத்த வழக்கு தங்களுக்கு
பொருந்தாது எனத் தெரிவிக்கப்படுகிறது.

முதன்மைக் கல்வி அலுவலர்
சென்னை.

3.Challenging the same, a writ petition was filed in W.P.No.4493 of 2018 by the first respondent herein. The Writ Court, having taken note of the order passed in W.P.MD.No.14870 of 2010, dated 15.09.2014, in similar circumstances, had allowed the said writ petition through the impugned order by giving directions to the respondents to pay the B.T.Assistant scale of pay to the writ petitioner from 01.06.2006 and selection grade B.T.Assistant scale of pay from 01.06.2016.

4.As against the said order though this appeal has been filed, the learned AAG, appearing for the appellants would submit that the learned Judge through the impugned order has mainly relied upon the order passed by the Writ Court earlier in W.P.MD.No.14870 of 2010, dated 15.09.2014. Subsequently, it has been taken on appeal in W.A.MD.No.1384 of 2014, where a Division Bench of



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this Court, by order dated 20.11.2014, has granted an interim order of status quo and the said writ appeal is still pending. Therefore, relying upon the said order passed by the Writ Court on 15.09.2014, made in W.P.MD.No.14870 of 2010, whether such an order can be passed and allowing the writ petition through the impugned order is a question, he contended.

5.We have also heard Mr.P.Ebenezer Paul, learned counsel appearing for the first respondent herein/writ petitioner, who would submit that in the said order dated 15.09.2014, made in W.P.MD.No.14870 of 2010, the learned Judge has relied upon the various decisions of the Hon'ble Supreme Court, reiterating the principle that there must be equal work equal pay. That principle has already been reiterated in a number of decisions of the Hon'ble Supreme Court and to cherish such a principle and to act upon based on such principle as already been held in a number of cases by the Hon'ble Supreme Court, such a decision as has been made by the Writ Court in W.P.MD.No.14870 of 2010 need not be regarded as a only precedent and he would submit that independently also, on the basis of the merits of the claim that has been made by the writ petitioner, the case of the petitioner should have been considered and as such, the benefit of paying the B.T. Assistant scale of pay to the petitioner ought to have been directed to be paid, which they failed to make



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despite the request having been made by the writ petitioner. Therefore, the writ petitioner had to approach this Court and get an order as has been passed, which is impugned herein. Therefore, the learned counsel would seek indulgence of this Court to dismiss the writ appeal.

6.We have considered the rival submissions made by the learned counsel for both sides and perused the materials placed before this Court.

7.The very import of the order impugned before the Writ Court dated 23.01.2018 has not given any reasons. In other words, it is bereft of reasons, except to state that the writ petitioner had not approached the Court to get any order and based on the orders already passed in respect of the other similarly placed persons, the benefit cannot be asked for by the writ petitioner.

8.This kind of reason cannot be sustained under the legal scrutiny because, no employee can be driven to approach the Court of law for getting their lawful rights .

9.If at all the teacher concerned made a request to seek equal pay for equal work i.e., B.Ed scale of pay, that should have been independently



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considered and decided by the authorities on its own merits. However, in the case on hand, except the abovesaid reasons, since no other reasons have been stated, for that reason alone, the order impugned before the Writ Court dated 23.01.2018 has to be set aside.

10. Merely because an appeal has been filed against the order dated 15.09.2014, made in W.P.MD.No.14870 of 2010, where an interim order of status quo has been granted, the very right of the writ petitioner to seek such a B.T.Assistant pay scale as she admittedly acquired the qualification based on the settled legal position cannot be denied by merely driving the parties to go before the Court of law. Hence, we do feel that the order impugned before the writ court dated 23.01.2018 even otherwise could not be sustained and therefore, it is to be quashed.

11. Resultantly, the order dated 23.01.2018, which is impugned before the Writ Court is liable to be quashed independently apart from the reasons which have been stated in the order passed by the learned Judge. Hence, to that extent, the allowing of the writ petition by setting aside the order dated 23.01.2018 cannot be interfered with.



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12. But at the same time since the learned AAG would submit that as against the order dated 15.09.2014, made in W.P.MD.No.14870 of 2010, which had been followed by the learned Judge through the impugned order which has been appealed by way of an intra Court appeal in W.A.MD.No.1384 of 2014, is still pending before the Madurai Bench of this Court, where an interim order of status quo was ordered sometime in 2014 and it still holds good, we are of the view that unmindful of the said pendency of the writ appeal, in view of the order that we have passed now, whereby the order impugned dated 23.01.2018, before the Writ Court, has been quashed or liable to be quashed independently, we are inclined to dispose this writ appeal with the following order for the aforesaid reasons,

13. That the order impugned passed by the Writ Court quashing the order dated 23.01.2018, passed by the Chief Educational Officer, Chennai, is to be sustained and accordingly, it is sustained. Resultantly, there shall be a direction to the appellant department to consider the request of the writ petitioner, dated 11.12.2017, on merits and in accordance with law, where based on the settled legal position as per the orders passed by the Hon'ble Supreme Court in a number of cases earlier, the plea raised by the writ petitioner shall be



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considered objectively and accordingly, a reasoned order on merits and in accordance with law shall be passed by the appellant department within a period of three months from the date of receipt of a copy of this order. With these modifications in the order impugned, the Writ Appeal stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

14.In view of the aforestated order whereby the order impugned is modified by disposing this present writ appeal, any coercive action already initiated by the first respondent/writ petitioner shall not be proceeded further.

(R.S.K., J.) (C.S.N., J.)
09.12.2024

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

To

The Correspondent,
Murthuzaviya Oriental Higher Secondary School,
Triplicane, Chennai – 5.



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AND
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