



WP(MD)No.6082 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.6082 of 2021
and
WMP(MD)Nos.4732, 11980 of 2021

K.C.Meena

.. Petitioner

v.

1.The District Elementary Educational Officer,
Karur, Karur District.

2.The Block Educational Officer,
Karur Union, Karur District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the second respondent in Na.Ka.No.899/A2/2020 dated 03.03.2021, quash the same and consequently, directing the respondents to continue to pay the selection grade pay in the cadre of Primary School Headmaster with effect from 01.03.2010 to the petitioner.



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For Petitioner : Mr.T.Pon Ramkumar
For Respondents : Mr.K.Balasubramani,
Special Government Pleader

ORDER

The petitioner is working as a Primary School Headmistress. She was provided with Selection Grade Pay in the year 2000, pursuant to G.O.Ms.No.210, P & AR Department, dated 11.03.1997. However, the same has been ordered to be recovered by the order impugned.

2.Learned Counsel for the petitioner submitted that the petitioner was initially appointed as a Secondary Grade Teacher on 01.03.1990 and on completion of ten years of service, she was provided with Selection Grade in the cadre of Secondary Grade Teacher on 01.03.2000. Thereafter, she was promoted as Primary School Headmistress on 16.06.2003.

3.According to the learned Counsel, the scale of pay for the Selection Grade Secondary Grade Teacher and the scale of pay for the Primary School Headmistress are one and the same, ie., Rs.5300-150-8300. Therefore,



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the petitioner is entitled for the Selection Grade in the cadre of Headmistress, as per G.O.Ms.No.210, P & AR Department, dated 11.03.1997. However, without considering the same, the impugned order of recovery has been made. He has also relied on the order passed by this Court in WP(MD)No.5588 of 2021, dated 07.06.2024 and submitted that similar order of recovery passed as against the similarly placed person, as that of the petitioner herein, was quashed by this Court in the light of the guidelines issued in G.O.Ms.No.210, P & AR Department, dated 11.03.1997.

4.He further submitted that there is no misrepresentation on their part and therefore, the order of recovery is not justified. He has also relied upon a decision of the Hon'ble Supreme Court in *Thomas Daniel v. State of Kerala and Others* [2022 SCC OnLine SC 536] that when there is no fault on the part of the petitioner, there cannot be any recovery.

5.Learned Special Government Pleader submitted that as per G.O.Ms.No.210, P & AR Department, dated 11.03.1997, the services rendered in the Selection Grade / Special Grade of the lower post shall be



counted for awarding Selection Grade / Special Grade in the higher post, if the scale of pay of the Selection Grade / Special Grade of the lower post and that of the higher post are identical or higher. However, the Government, vide Letter in No.23373/S/2011-2 dated 09.08.2011, has issued a clarification that in the revised pay scales implemented with effect from 01.01.2006, no separate scales of pay have been provided for Selection Grade / Special Grade posts. Only one increment equal to 3% of the basic pay including grade pay, in the same pay band is allowed to the employees while awarding Selection Grade / Special Grade. Therefore, the question of counting the services rendered in the Selection Grade / Special Grade of the lower post for awarding Selection Grade / Special Grade in the promotion post does not arise at all.

6.Heard the learned Counsel appearing on either side and perused the materials placed on record.

7.The petitioner, based on G.O.Ms.No.210, P & AR Department, dated 11.03.1997, is claiming that the scale of pay drawn by her for the post of



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Selection Grade Secondary Grade Teacher and the scale of pay for the post of Headmistress are one and the same. However, it has been clarified by the Government in the letter dated 09.08.2011 that in view of the revised scales of pay implemented with effect from 01.01.2006, G.O.Ms.No.210, P & AR Department, dated 11.03.1997 is not applicable.

8.The petitioner is working as a Headmistress. Without knowing the clarification issued in G.O.Ms.No.210, P & AR Department, dated 11.03.1997, the petitioner filed this writ petition that her pay has been wrongly fixed. As per the clarification referred above, the petitioner is not eligible for the relief. Therefore, this Court is not inclined to entertain the writ petition.

Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
NCC : Yes / No
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B.PUGALENDHI, J.

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