



W.P.(MD)No.10805 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.04.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.10805 of 2024

C.Aruldass Naves

... Petitioner

Vs.

1.The Director of Elementary Education,
O/o. The Director of Elementary Education,
DPI Complex, College Road,
Chennai – 600 006.

2.The District Educational Officer (Elementary Education),
O/o. The District Educational Officer,
Musuri, Trichy District.

... Respondents

PRAAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned communication in Na.Ka.No.4842/aa4/2023, dated 21.12.2023, on the file of the respondent No.2 and quash the same as illegal and consequently to direct the respondents to rectify the pay anomaly in the case of the petitioner on par with the Juniors within the time stipulated by this Court.

For Petitioner : Mr.S.Louis

For Respondents : Mr.T.Amjad Khan
Government Advocate



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ORDER

By consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

2. Mr.S.Louis, learned counsel appearing for the petitioner and Mr.T.Amjad Khan, learned Government Advocate appearing for respondents.

3. This Writ Petition has been filed seeking to quash the impugned communication in Na.Ka.No.4842/aa4/2023, dated 21.12.2023, on the file of the second respondent and consequently to direct the respondents to rectify the pay anomaly of the petitioner on par with his Junior P.Simon Peter.

4. Mr.S.Louis, learned counsel appearing for the petitioner would submit that the petitioner is drawing same pay as that of one P.Simon Peter, who is his next junior and who also joined as Secondary Grade Teacher in the same recruitment. The petitioner and the said Simon Peter have got selection grade during the year 1996 and thereafter, the petitioner was moved to promotion and his junior was moved to selection grade subsequently. At the relevant point of time, the petitioner was getting higher pay of Rs.6050/- and the junior who got



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the promotion later has got a less pay of Rs.5,900/-. Hence, the petitioner got higher pay as he happened to be the senior by virtue of his earlier promotion. In the next promotion to the Middle School Headmaster, the junior opted to fix his pay under Rule 22B of the Fundamental Rules and fixing his scale in the higher post was fixed as he had got his selection grade in the lower post. Since the petitioner has got his promotion even before he reached the selection grade in the lower post, the pay anomaly had occurred.

5. Only in order to alleviate the pay anomaly, a Government order has already been issued in G.O.(Ms).No.25, Personnel and Administrative Reforms (FR.IV) Department, dated 23.03.2015, in which, it is stated as under:

G.O.(Ms).No.25, Personnel and Administrative Reforms (FR.IV) Department, dated 23.03.2015:

“5. The Government direct that in cases where Government servants who have been appointed / promoted to higher posts without moving to Selection Grade / Special Grade in the lower post and there by happen to draw less pay than their junior who are appointed / promoted to the higher posts after moving to the Selection Grade / Special Grade of the lower post, in the revised Scales of pay, the pay of such seniors



should be fixed in the higher post equal to the pay of the junior in the higher post with effect from the date of drawal of higher pay by

The junior in the higher post subject of fulfilment of the following conditions:

i. Both the junior and senior officers should belong to the same cadre and the post in which they have been promoted or appointed should be identical and in the same cadre.

ii. The scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical.

iii. The pay anomaly should be arising directly as a result of fixation of pay in the promotional post after fixation of pay in the Selection Grade / Special Grade of the lower post. For example, if even in the lower post the junior officer draws from time to time, a higher rate of pay than the senior by virtue of grant of advance increment, the provisions contained in this order should not be invoked to step up the pay of the senior officer; and



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iv. The orders refixing the pay of the senior officers in accordance with the provisions of this order should be issued under Fundamental Rule 27. The next increment of the senior officer will be drawn on completion of the requisite qualifying service with effect from the date of refixation of the pay.”

6. The very same Government Order has been adopted in the various judgment of this Court in the Writ Petition filed by the similarly placed persons and one such reference was drawn from W.P.(MD).No.18122 of 2020 and the relevant portion in the said order is extracted hereunder:

“5. Thus from the perusal of the above order issued by the Government, it is clear that the anomaly that has occurred due to grant of Selection Grade/ Special Grade in the lower post to the junior, even before the promotion of the junior to the higher post, resulting in drawing of higher pay than the senior in the promotion post, is sought to be rectified. When the petitioner approached the respondents seeking rectification of the anomaly in the pay of the petitioner and to step up the pay on par with his junior, the respondents, in all fairness, ought to have applied



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the orders issued by the Government in G.O. (Ms.)No.25, Personnel and Administrative Reforms (F.R.IV) Department, dated 23.03.2015. But for the reasons, the respondents have failed to apply the said Government Order, though the fact situation of the instant case warrants direct application of the said Government Order.”

7. Since the petitioner is also the similarly placed person, he is also entitled to get the same benefit and hence, the Writ Petition deserves to be allowed.

8. Hence, this Writ Petition stands allowed and the impugned communication in Na.Ka.No.4842/aa4/2023, dated 21.12.2023 passed by the second respondent is quashed and the respondents are directed to step up the pay of the petitioner on par with his junior viz., P.Simon Peter in terms of G.O. (Ms.)No.25, Personnel and Administrative Reforms (F.R.IV) Department, dated 23.03.2015, as modified from time to time, and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order and extend all the consequential benefits to the petitioner. No costs.

30.04.2024

Index:yes/no



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Internet:yes/no

Ncc : yes/no

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To

- 1.The Director of Elementary Education,
O/o. The Director of Elementary Education,
DPI Complex, College Road,
Chennai – 600 006.
- 2.The District Educational Officer (Elementary Education),
O/o. The District Educational Officer,
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R.N.MANJULA, J.

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