



W.P.(MD).No.9595 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 09.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.9595 of 2023

D.David Miller

...Petitioner

Vs

1.The Joint Director of School Education (Personnel),
Commissionerate of School Education,
DPI Compound, Chennai-6.

2.The Chief Educational Officer,
O/o the Chief Educational Officer,
Virudhunagar,
Virudhunagar District.

3.The District Educational Officer,
O/o the District Elementary Educational Officer,
Virudhunagar,
Virudhunagar District.

...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to fix the pay of the petitioner based on the pay last drawn received in the Aided School in the post of B.T.Assistant from the date of joining as B.T.Assistant in Government Higher Secondary School by considering the petitioner's representation, dated 06.02.2023 and 28.03.2023 in the light of order passed by the Division Bench of this Court in W.A.(MD) No.627 of 2022, dated 15.07.2022 within the period that may be stipulated by this Court.



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For Petitioner : Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

For Respondents :Mr.M.Sarangan
Additional Government Pleader

ORDER

The present writ petition has been filed seeking direction to the 2nd respondent to fix the pay of the petitioner based on the pay last drawn received in the Aided School in the post of B.T.Assistant from the date of joining as B.T.Assistant in Government Higher Secondary School by considering the petitioner's representation, dated 06.02.2023 and 28.03.2023 in the light of order passed by the Division Bench of this Court in W.A.(MD) No.627 of 2022, dated 15.07.2022 within the period that may be stipulated by this Court.

2. The petitioner was appointed as B.T Assistant (Maths) on 09.06.2005 at R.C. High School, Theni District and now he is working as B.T Assistant (Maths) at Government High School, O.Mettupatty, Virudhunagar District. The said appointment was approved by the 3rd respondent vide proceedings, dated 07.11.2006. The petitioner was issued with an order of appointment by the 1st respondent vide proceedings, dated



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19.12.2011 and was posted at Government Higher Secondary School, Thalaikadu, Thirthooraiipoondi Taluk, Thiruvarur District. He made an application to the Secretary of St.Joseph R.C. Middle School, Anumanthanpatty, Theni on 26.12.2011 requesting him to relieve the petitioner from the post of B.T Assistant enabling him to join in the service of the Government School. He was relieved from the said post on 28.12.2011 and duly joined duty in the Government Higher Secondary School on 29.12.2011. The joining report was communicated by the Head Master of the said school to the 1st respondent. The relieving order was also approved by the 3rd respondent. The last pay drawn in the post of B.T Assistant (Maths) at St.Joseph R.C. Middle School, Anumanthanpatty, Theni was Rs.29,527/-. However, when the petitioner joined the Government Higher Secondary School, his pay was fixed at Rs.22,322/- lesser than the last drawn pay received in the aided school. Hence, the petitioner made several representations to the respondents on various occasions to fix his pay based on the last pay drawn in the aided school. In a similar issue, this Court in W.P.No.3868 of 2019, dated 16.10.2020 has held that a Secondary Grade Teacher working in an aided school recruited through TRB and further appointed as B.T Assistant is entitled to pay protection. The said order was confirmed by the Hon'ble Supreme Court in SLP (Civil) No.5633 of 2021, dated 12.04.2021. Based on the same, the 2nd respondent ought to have fixed



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the petitioner's salary on the basis of his last pay drawn in the aided school in the post of B.T Assistant. Since his pay was not fixed in the said line, this writ petition came to be filed.

3. The learned Additional Government Pleader submitted that the petitioner's service under the aided school management is covered by Tamil Nadu Private Schools Regulations Act, 1973. However, now he has been accommodated in the Government school. The relevant act would be Tamil Nadu Subordinate Service Rules. Since the scope of both the Act differs in its area of operation, the fixation of pay of the petitioner on the basis of the last pay drawn in the aided school is not possible and pressed for dismissal of the writ petition.

4. Considering the largest scope of the case and the various judgments quoted by the petitioner in his representation, this Court hereby direct the 2nd respondent to consider the petitioner's representation, dated 06.02.2023 and 28.03.2023 and pass appropriate orders in the light of the order passed by the Hon'ble Division Bench of this Court in W.A(MD)No.627 of 2022, dated 15.07.2022 and in accordance with law within a period of twelve (12) weeks from the date of receipt of copy of this order.



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5. With the above said observations, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

09.02.2024.

Internet : Yes

Index : Yes/No

NCC : Yes/No

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To

- 1.The Joint Director of School Education (Personnel),
Commissionerate of School Education,
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- 2.The Chief Educational Officer,
O/o the Chief Educational Officer,
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Virudhunagar District.
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L.VICTORIA GOWRI, J.

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