



W.A.(MD).No.86 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

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I.Mary

... Appellant

*(Appellant is substituted in the place of the
deceased sole appellant vide Court order
dated 03.10.2024 made in C.M.P.(MD).No.
12829 of 2024 in W.A.(MD).No.86 of 2023)*

Vs.

1.The District Educational Officer,
Devakottai,
Sivagangai District.

2.The Block Educational Officer,
Kalaiyarkovil,
Sivagangai District.

... Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order in W.P.(MD).No.2106 of 2019 dated 05.04.2022 and allow the present Writ Appeal.

For Appellant : Mr.V.Panneer Selvam

For Respondents : Mr.J.Ashok
Additional Government Pleader



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JUDGMENT

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(Judgment of the Court was made by M.S.RAMESH,J.)

The present Writ Appeal has been filed challenging the order of the learned Single Judge in W.P.(MD).No.2106 of 2019 dated 05.04.2022.

2. When the appellant's husband/writ petitioner had sought for rectification of the pay anomaly and for fixation on par with his junior, Smt.A.Xavier Bertinant Mary, his request was rejected predominantly on the ground that the writ petitioner and his junior were appointed in two different Panchayat Union Schools and therefore, their pay scales cannot be compared for the purpose of stepping up the scale of pay of the writ petitioner.

3. The above issue of rectification of pay anomaly of two teachers appointed in different Panchayat Unions is no more *res integra* and several orders have been passed by this Court in Writ Petitions as well as Writ Appeals. The orders of the Division Benches of this Court in ***W.A.(MD).No.27 of 2020 dated 15.07.2021 [The District Educational Officer and another Vs. V.S.Shree Devi]***, ***W.A.(MD).No.1220 of 2019 dated 14.11.2019 [The Director of Elementary Education, Chennai and others Vs. I.Poongodi]*** and ***W.A.***



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(MD).No.2209 of 2024 dated 30.10.2024 [The District Educational Officer(Elementary), Karur and another Vs. R.Rajendran], are few of such orders, which have become final.

4. The learned Single Judge, while passing final orders in the Writ Petition, had not referred to the earlier orders of this Court, but had rendered a finding based on the comparison of the facts of the case of two teachers and dismissed the Writ Petition.

5. In our view, the order passed in the Writ Petition, disregarding several decisions of the Division Benches of this Court, is deemed to be *per incuriam* and hence, cannot be legally sustained. Accordingly, the order passed in W.P. (MD).No.2106 of 2019 dated 05.04.2022 is quashed. Consequently, the order passed by the second respondent herein in his proceedings in Aa.Thi.Mu.No. 1316/A1/2018 dated 25.07.2018 is quashed and the respondents are directed to step up the appellant's husband/writ petitioner's scale of pay with effect from 01.07.2013, the date on which his junior, Smt.A.Xavier Bertinant Mary, was given higher scale of pay, together with all consequential benefits, within a period of eight (8) weeks from the date of receipt of a copy of this order.



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6. Accordingly, the Writ Appeal stands allowed. There shall be no order as to costs.

(M.S.R.,J.) (A.D.M.C.,J.)
20.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To

1.The District Educational Officer,
Devakottai,
Sivagangai District.

2.The Block Educational Officer,
Kalaiyarkovil,
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