



W.P.(MD)No.18122 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2024

CORAM:

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD)No.18122 of 2020

K.S.Elavarasu

... Petitioner

Vs.

1.The District Educational Officer,
O/o.The District Educational Officer,
Vedachandur Educational District,
Vedachandur, Dindigul District.

2.The Block Educational Officer,
O/o Block Educational Officer,
Reddiyar Chatram Block,
Dindigul District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in O.Mu.No.2389/Aa1/2020 dated 19.02.2020 on the file of the Respondent No.1 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.

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For Petitioner : Mr.S.Louis

For Respondents : Mr.V.Om.Prakash,
Government Advocate.

ORDER

The admitted facts of the case, which are relevant for disposal of this Writ Petition, are as under:

The petitioner and one T.Veeravel were appointed as Secondary Grade Assistant on 07.10.1996 in Thoppampatti Block and Kodaikanal Block respectively and subsequently both of them came on transfer to Reddiyar Chatram Block on 12.06.1997 and 05.08.1997 respectively. Thereafter, both of them were promoted as the Headmaster of the Primary School on 24.06.2014 and 08.10.2016 respectively. Thereafter, the petitioner, after having realized that the said T.Veeravel, who is junior to the petitioner both in the cadre of Secondary Grade Assistant and in the cadre of Headmaster in Primary School, has been drawing higher pay than the petitioner that is pay of Rs.67,500/- for the month of November 2020 and whereas, the petitioner is drawing only an amount of

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2. The respondents filed a counter affidavit reiterating the very same reason that is the petitioner and his junior were appointed on different Blocks and subsequently they came to Reddiyar Chatram Block and therefore, he is not entitled for stepping up of pay. It is also stated that the junior of the petitioner was granted Special Grade pay while he was working as Secondary Grade Assistant and whereas the petitioner was promoted to the post of Primary School Headmaster even prior to awarding of Special Grade and therefore, the anomaly has occurred. There is no dispute about the factual aspect. There is also no



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dispute that both the petitioner and his junior were transferred from different block to Reddiyar Chatram Block and they have been promoted as Headmaster of Primary School in the very same Block and they have been working as such in the same Block.

3. The learned Government Advocate placed reliance in Rule 9 of the Special Rules for Tamil Nadu Elementary Educational Subordinate Service Rules and contended that for the purpose of appointment as full member, appointment or discharge in different categories, each Panchayat Union shall be a unit. There cannot be any dispute about the same. As already noted above, both the petitioner and his junior have been working in the very same Panchayat Unit. Hence, the reliance placed by the learned Government Advocate on Rule 9 of the Special Rules for Tamil Nadu Elementary Educational Subordinate Service Rules is of no avail.

4. Further, the learned counsel for the petitioner has brought to the notice of this Court G.O.(Ms.)No.25, Personnel and Administrative Reforms (F.R.IV)

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Department, dated 23.03.2015, wherein the pay anomaly which arose in the instant case and similar such instances are sought to be rectified by the Government by issuing the said order. The relevant paragraph of the said order reads as under:

“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 to 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*



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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, and

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.”

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



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to step up the pay on par with his junior, the respondents, in all fairness, ought to have applied 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.

6. Further, the learned counsel for the petitioner also placed reliance on various decisions of this Court in W.P.No.18604 of 2020 and W.P.(MD)No.742 of 2018, dated 06.10.2023 and 07.02.2018 respectively. In the said decisions also this Court has dealt with a similar fact situation and ordered for stepping up the pay of the petitioners therein on par with their respective juniors.

7. In the light of the above, especially, taking into consideration that the Government itself issued G.O.(Ms.)No.25, Personnel and Administrative Reforms (F.R.IV) Department, dated 23.03.2015 to rectify the anomaly like the case on hand, this Court has no hesitation to declare that the petitioner is entitled



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for stepping up of his pay in par with his junior viz. T.Veeravel working as Headmaster of Primary School in Reddiyar Chartram Block .

8. Accordingly, this Writ Petition is allowed directing the respondent No.1 to step up the pay of the petitioner on par with his junior viz., T.Veeravel 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. There shall be no order as to costs.

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Neutral Citation: Yes / No
Index : Yes / No
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To

- 1.The District Educational Officer,
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Vedachandur Educational District,
Vedachandur, Dindigul District.
- 2.The Block Educational Officer,
O/o Block Educational Officer,
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MUMMINENI SUDHEER KUMAR, J.

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