



W.P.(MD)No.5720 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2024

CORAM

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.5720 of 2017

and

W.M.P.(MD)Nos.4579, 4580 & 7992 of 2017

S.Vijayarani

: Petitioner

Vs.

1.The Director of Elementary Education,

O/o. the Director of Elementary Education,
College Road, Chennai – 6.

2.The District Elementary Educational Officer,

O/o. the District Elementary Educational Officer,
Collectorate Campus, Sivagangai.

3.The Additional Assistant Elementary Educational Officer,

O/o. the Additional Assistant Elementary Educational Officer,
Ilayankudi, Sivagangai District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, calling for the records relating to the impugned order passed by the third respondent in his proceedings ந.க.எண்.59 / ஆ2 / 2017 dated 10.03.2017 within the period that may be stipulated by this Court.



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W.P.(MD)No.5720 of 2017

For Petitioner : Mr.H.Mohamed Imran
for M/s.Ajmal Associates
For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

This Writ Petition has been filed challenging the order dated 10.03.2017 passed by the third respondent rejecting the petitioner's request for rectification of his pay anomaly on par with his junior A.James Vimala Daisy. The details of the appointment of the petitioner as well as that of her junior A.James Vimala Daisy are reproduced hereunder:

NAME	Initial Appointment	Appointment to the present Union	Date of promotion as Elementary School Head Mistress	Date of promotion as B.T.Assistant	Date of promotion as Middle School Head Mistress
S.Vijayarani	18.12.1989	16.06.1992	09.10.2000	05.11.2007	31.05.2008
A.James Vimala Daisy	10.10.1996	10.10.1996	01.10.2001	01.10.2010	23.12.2011

2.The aforesaid tabular column giving the details of employment of the petitioner as well as her junior A.James Vimala Daisy are also not disputed by the respondents. Under the impugned order, the petitioner's request has been rejected on the following grounds:

- a) The third respondent is not a competent authority for fixing the pay of the petitioner. Since the pay fixation was done by



W.P.(MD)No.5720 of 2017

the third respondent [incompetent authority as per the respondents], the petitioner is not entitled for rectification of his alleged pay anomaly.

b) The petitioner and her junior A.James Vimala Daisy belong to different union and therefore, the pay of the petitioner cannot be fixed on par with the pay of her junior A.James Vimala Daisy.

3.Earlier the very same petitioner had filed a writ petition in W.P.(MD)No.24540 of 2016 before this Court challenging the order cancelling the conferment of benefit in favour of the petitioner pursuant to her pay fixation and by order dated 21.12.2016 passed in the said writ petition, the impugned order was quashed and the matter was remanded back to the third respondent for fresh consideration on merits and in accommodation with law. Pursuant to the said order, after giving an opportunity of hearing to the petitioner, the impugned order has been passed by the third respondent rejecting the petitioner's request for rectification of her pay anomaly.

4.Admittedly, A.James Vimala Daisy is the petitioner's junior as seen from the tabular column referred to supra. Though she may belong to a different union, the law is now well settled by various decisions rendered by this Court including the decision



W.P.(MD)No.5720 of 2017

rendered by a Division Bench of this Court on 15.04.2021 passed in W.A.(MD)Nos.1223 and 1258 of 2020 as well as the decision of the learned Single Judge of this Court dated 06.01.2020 passed in W.P.No.34455 of 2019, wherein it has been consistently held that distinction cannot be drawn by the department on the ground that two Teachers are working in two different Panchayat Union Schools. In view of the settled law, the second reason given by the third respondent for rejection of the petitioner's request for rectification of her pay anomaly is not in accordance with the settled law.

5.Insofar as the first reason given by the third respondent under the impugned order rejecting the petitioner's request namely that the third respondent is not the competent authority is concerned, the third respondent is the authority which had earlier fixed the pay of the petitioner through an order dated 20.06.2013 and this Court had also directed only the third respondent in the earlier writ petition filed by the very same petitioner as referred to supra in W.P.(MD)No.24540 of 2016, after setting aside the impugned order passed by the third respondent which was the subject matter of that writ petition. Only based on the directions issued by this Court in the earlier writ petition filed by the petitioner, the present impugned order came to be passed by the third respondent. If at all the third respondent is not a competent authority, the respondents ought to have raised the said objection in



W.P.(MD)No.5720 of 2017

the earlier writ petition filed by the very same petitioner but not at this belated stage in this writ petition. When it is very clear as seen from the tabular column extracted earlier in this order that the petitioner is senior to A.James Vimala Daisy, necessarily there must be pay parity between the petitioner and A.James Vimala Daisy who are both presently working as Middle School Head Mistresses. Therefore, the relief sought for in this writ petition has to be granted by quashing the impugned order dated 10.03.2017 passed by the third respondent, rejecting the petitioner's request for rectification of pay anomaly by holding that the pay of the petitioner has to be fixed on parity with that of A.James Vimala Daisy.

6.Accordingly, the impugned order is hereby quashed and this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

20.09.2024

Index :Yes / No
Internet : Yes / No
NCC : Yes/No
MR



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W.P.(MD)No.5720 of 2017

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W.P.(MD)No.5720 of 2017

ABDUL QUDDHOSE, J.

MR

W.P.(MD)No.5720 of 2017

20.09.2024