



W.P.(MD)No.7163 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2024

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.7163 of 2017

S.Sivarani

... Petitioner

Vs.

- 1.The Director of Elementary Education,
College Road,
Chennai – 6.
- 2.The District Elementary Educational Officer,
Dindigul District,
Dindigul.
- 3.The Assistant Elementary Educational Officer,
Guziliamparai,
Dindigul - 624 620.
- 4.V.Mallika,
Headmistress,
Panchayat Union Elementary School,
Ellaipatti Pudur, Guziliamparai Panchayat Union,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the third respondent in his proceedings Na.ka.No. 818/A1/2016 dated 06.10.2016 and quash the same as illegal and consequently



W.P.(MD)No.7163 of 2017

directing the respondents 1 to 3 to step up the pay of the petitioner equivalent to the fourth respondent on the date when the 4th respondent started drawing higher pay than the petitioner in the post of Elementary School Headmaster and further directing the respondent Nos.1 to 3 to pay arrears and all other attendant, monetary and other benefits within a time frame fixed by this Court.

For Petitioner : Mr.D.Kirubakaran

For R-1 to R-3 : Mr.T.Amjad Khan,
Government Advocate

For R-4 : No Appearance

ORDER

This Writ Petition has been filed challenging the impugned order dated 06.10.2016, passed by the third respondent, rejecting the petitioner's representation seeking to step up her pay on par with the fourth respondent's pay on the date when the fourth respondent started drawing higher pay than that of the petitioner in the post of Elementary School Headmistress.

2. In the impugned order, the only reason given for rejecting the petitioner's request is that, the petitioner and the fourth respondent belonged to different union and therefore, there is no pay anomaly between the petitioner and the fourth respondent and the question of rectification of pay anomaly does not arise.



W.P.(MD)No.7163 of 2017

3. In this Writ Petition, the petitioner has raised the ground that the third respondent has failed to appreciate the fact that the pay anomaly has resulted due to the fact that the fourth respondent being given with selection grade pay in the post of Secondary Grade Teacher before the petitioner was promoted to the post of Elementary School Headmistress and whereas, the petitioner was promoted to the post of Elementary School Headmistress without getting the benefit of Selection Grade Pay in the post of Secondary Grade Teacher and the pay anomaly was, due to VI Pay Commission recommendation, given with effect from 01.01.2006.

4. In the representation submitted by the petitioner, the aforesaid ground was also raised. But, the respondents have not considered the same in the impugned order. The only reason given by them for rejecting the petitioner's request is that, the petitioner and the fourth respondent belonged to different union. The issue with regard to different union is now well settled by various decisions rendered by this Court and it has been consistently held that, just because, the junior of the petitioner comes under different union, the right to rectify the pay anomaly cannot be defeated. Therefore, the reason given by the respondents under the impugned order for rejecting the petitioner's request is contrary to the well settled law as laid down by various decisions of this Court



W.P.(MD)No.7163 of 2017

as it has been consistently held in the said decisions that, just because, the junior is in a different union, the right of the petitioner to rectify the pay anomaly should not get defeated.

5. Admittedly, the case of the petitioner has not been considered on merits by the respondents under the impugned order. But, only on the ground that the fourth respondent belongs to different union, the request of the petitioner has been rejected. Necessarily, the request of the petitioner seeking for rectification of pay anomaly based on her representation has to be considered on merits and in accordance with law after giving due consideration to the fact that the petitioner's right for rectification of pay anomaly cannot be defeated on the ground that the fourth respondent belongs to different union.

6. Since the impugned order has not been gone into the merits of the petitioner's request, but, has only been passed based on the fact that the fourth respondent belongs to different union, necessarily, the impugned order has to be quashed and the matter will have to be remanded back to the second respondent for fresh consideration on merits and in accordance with law within a time frame to be fixed by this Court.



W.P.(MD)No.7163 of 2017

7. In view of the above, the impugned order dated 06.10.2016, passed by the third respondent, is quashed and the second respondent is directed to pass fresh orders on merits and in accordance with law on the petitioner's request for rectification of pay anomaly with that of the fourth respondent after taking note of the well settled law that the petitioner's right cannot be defeated even though the fourth respondent belongs to a different union within a period of eight weeks from the date of receipt of a copy of this order.

8. With the aforesaid direction, the Writ Petition stands disposed of. No costs.

19.09.2024

NCC:yes/no

Index:yes/no

Internet:yes/no

TSG

To

- 1.The Director of Elementary Education,
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- 2.The District Elementary Educational Officer,
Dindigul District,
Dindigul.
- 3.The Assistant Elementary Educational Officer,
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W.P.(MD)No.7163 of 2017

ABDUL QUDDHOSE, J.

TSG

W.P.(MD)No.7163 of 2017

19.09.2024