



W.P.(MD).No.22879 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 14.11.2024

ORDER PRONOUNCED ON : 19.11.2024

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD).No.22879 of 2023

M.Sundaran

....Petitioner

Vs

1.The Secretary to Government
School Education, Fort St.George
Chennai 600 009

2.The Directorate of Elementary Education
DPI Compound, College Road
Chennai 600 006

3.The District Educational Officer(Elementary School)
Nagercoil, Kanniyakumari District

4.The Block Educational Officer VIII
Thiruvattar
Kanniyakumari District 629 177.

....Respondents

Prayer : This 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 proceedings of the 4th respondent namely the Block Educational Officer VIII, Thiruvattar in O.Mu.No.720/A/2022 dated 24.01.2023 and quash the same and consequently direct the respondents



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herein to step up the pay of the petitioner on par with the petitioner's junior Mr.P.Christudas with effect from 01.07.2018 with all monetary benefits.

For Petitioner : Mr.A.G.Rajan

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

The present writ petition has been filed by a B.T.Assistant Teacher challenging an order passed by the fourth respondent on 24.01.2023 wherein the request of the writ petitioner seeking to rectify the pay anomaly and to grant pay parity on par with one Mr.P.Christudas has been rejected.

2.According to the writ petitioner, the petitioner was appointed as a Secondary Grade Teacher on 31.07.1995 at Panchayat Union Primary School, Kalayarcoil, Sivagangai District. He was conferred with selection grade on 06.08.2005 and promoted as Headmaster. The petitioner was granted incentive increments for passing B.Ed examination on 30.12.2012. The petitioner was promoted as Primary School Headmaster on 24.06.2014. The petitioner was later promoted as B.T.Assistant on 18.08.2015 and he attained superannuation on 31.05.2023.

3.The said Mr.P.Christudas was appointed as a Secondary Grade Teacher on 02.08.1995 in the Panchayat Union Primary School, S.Puthoor,



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Kattukudipatti, Sivagangai District. He was conferred with the selection grade on 08.08.2005 and special grade on 02.08.2015. The said Christudas was promoted as Headmaster of Primary School on 08.08.2016. He was then promoted as B.T.Assistant on 15.06.2018.

4.According to the learned counsel appearing for the writ petitioner, after comparing the profile of the writ petitioner with the said Christudas, contends that though the said Christudas is junior to him in the Secondary Grade Teacher post, while conferment of selection grade, promotion to Primary School Headmaster and promotion as B.T.Assistant, yet he is being paid a lesser pay scale. It is the further contention that though the petitioner was receiving a higher pay scale of Rs.25,540/- on 01.07.2016 and the said Christudas was receiving a lesser pay scale of Rs.25,090/-, later salary of the said Christudas was raised more than the petitioner which resulted in pay anomaly.

5.The learned counsel had further contended that though the petitioner had completed 20 years of service as a Secondary Grade Teacher, he was not conferred with special grade as that of the said Christudas. He relied upon G.O.(Ms).25, Personnel and Administrative Reforms (FR.IV) Department, dated 23.03.2015 and contended that he is eligible to the benefit under the said Government Order. He had further relied upon the recommendations of the third respondent herein dated 01.12.2021 for grant of higher pay scale to



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the writ petitioner.

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6.Per contra, the learned Additional Government Pleader appearing for the respondents had contended that the said Christudas was conferred with two incentive increments on 26.12.2012 while he was working as a Secondary Grade Teacher. However, the petitioner was conferred with only one incentive increment on 30.12.2012. Therefore, in the year 2012 itself, the scale of pay of the said Christudas was higher than that of the writ petitioner.

7.The learned Additional Government Pleader had further contended that the petitioner, without awaiting for conferment of special grade, had opted to get promotion as a Primary School Headmaster and got promotion on 24.06.2014. However, the said Christudas was conferred with special grade on 02.08.2015 and later he was promoted as Primary School Headmaster only on 08.08.2016. Therefore, the grievance of the writ petitioner that he was not conferred with the special grade in the cadre of selection grade teacher is not legally sustainable.

8.The learned Additional Government Pleader had relied upon G.O.Ms.No.303, Finance (Pay Cell) Department, dated 11.10.2017 and contended that the said Christudas, having received higher pay scale, in view of an additional incentive increment and conferment of special scale, the petitioner cannot compare himself with the said Christudas and therefore, the grievance of the writ petitioner is not factually correct.



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9.The learned counsel appearing for the writ petitioner by way of reply submission had submitted that the petitioner was also conferred with the second incentive increment on 28.05.2015 and therefore, such a defence cannot be raised by the respondent authorities.

10.I have considered the submissions made on either side and perused the material records.

11.The primary grievance of the writ petitioner is that his junior Christudas has got a higher pay scale than the writ petitioner. It is true that the writ petitioner was appointed as a Secondary Grade Teacher on 31.07.1995 while the said Christudas was appointed only on 02.08.1995.

12.It is not in dispute that the seniority in the cadre of Secondary Grade Teacher is maintained at the Panchayat Union level. For comparing oneself as a senior to another Government servant, first of all, it should be found out whether both of them are working in the same Panchayat Union or not. The petitioner and the said Christudas are working in different Panchayat Union. Only based upon her union seniority, the petitioner had been promoted as Headmaster of Primary School and thereafter, to the post of B.T.Assistant. Therefore, the basic criteria for considering the petitioner as senior to the said Christudas has not been fulfilled.

13.The said Christudas had been conferred with two incentive increments in 2012 while the petitioner was conferred only with a single



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incentive increment in the said year. Therefore, in 2012 itself, the said Christudas was drawing higher pay scale than the writ petitioner. The petitioner had been promoted as a Primary School Headmaster in the year 2014 and thereafter, he was conferred with the second incentive increment in 2015. Therefore, the petitioner was drawing higher pay scale than the said Christudas on 01.07.2016. However, when the said Christudas was promoted as Primary School Headmaster in 2016, his pay scale was higher than the writ petitioner, in view of the fact that the said Christudas was conferred with special grade in the cadre of Secondary Grade Teacher.

14.A Secondary Grade Teacher has an option either to wait for reaching the special grade or to get promotion as a Primary School Headmaster. The petitioner has exercised the said option and got promoted as a Primary School Headmaster in June 2014. Therefore, the petitioner cannot blame the authorities for not conferring the special grade in the cadre of Secondary Grade Teacher.

15.The learned counsel for the petitioner had placed reliance upon G.O.(Ms).No.25, Personnel and Administrative Reforms (FR.IV).Department, dated 23.03.2015 in support of his contention. A perusal of Clause-5 Condition No.iii reveals that the said Government Order is not applicable in cases where the junior had been receiving higher pay scale even in the lower



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post than that of the senior because of conferment of incentive increments. In the present case, Mr.P.Christudas was drawing higher pay scale than that of the writ petitioner in December 2012 while both of them were working as a Secondary Grade Teacher. Therefore, the request of the petitioner for stepping up his pay in the promotional post is not legally sustainable.

16.As rightly pointed out by the learned Additional Government Pleader, G.O.Ms.303, Finance (Pay Cell), Department, dated 11.10.2017 has been passed revising the pay scale. Clause 13 deals with removal of pay anomalies. As per proviso to Clause-13, where the pay of junior employee is greater than that of the senior on account of any advance increment granted to him, the provisions of this sub rule cannot be invoked to step up the pay of the senior employee. Therefore, it is clear that the petitioner would not be entitled to seek for stepping up of his pay on par with his junior, in view of the fact that the junior had been conferred with two incentive increments prior to him and also been conferred with special grade pay in the cadre of Selection Grade Teacher post.

17.In view of the above said facts, it is clear that the petitioner though senior by date of appointment, he cannot compare himself to that of the said Christudas and seek pay parity by stepping up his pay, in view of the advance



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increment granted to the said Christudas and the special grade conferred upon the Christudas ahead of the writ petitioner. Therefore, there are no merits in the writ petition and the writ petition stands dismissed.

19.11.2024.

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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