



W.P.No.4424 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 25.03.2025

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.4424 of 2021

T.Arularasu

... Petitioner

Vs.

1. The Director of School Education,
College Road, Chennai- 6.

2. The Joint Director of School Education (NSS),
College Road, Chennai-6.

3. The Chief Educational Officer,
Tiruvannamalai District,
Tiruvannamalai.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent issued in O.M.No.070101/L/E4/2017 dated 05.12.2018 by the 2nd respondent and quash the same and issue a consequential direction to the respondents to step-up the pay of the petitioner to the level his junior from 18.07.2012 and fix the petitioners pay at Rs.23,480 and grant arrears of pay.

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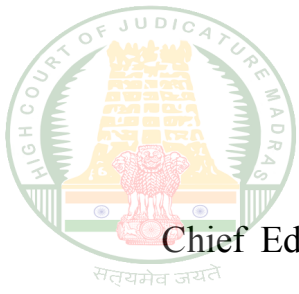
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For Petitioner : Mr.R.Saseetharan
For Respondents : Mr.L.S.M.Hasan Fazil,
Additional Government Pleader

ORDER

Writ petition is filed for issuance of a writ of certiorarified mandamus calling for the records of the 2nd respondent dated 05.12.2018, to quash the same and consequently direct the 2nd respondent to step up the pay of the petitioner on par with his junior from 18.07.2012, by fixing his pay at Rs.23,480/- and disbursing the arrears accordingly.

2. The petitioner was appointed on 17.01.2002, as B.T Assistant through the Selection conducted by the Teachers Recruitment Board. The petitioner was granted incentive increments for M.A degree from 02.01.2007 and M.Phil from 09.03.2009. Subsequently, the petitioner was promoted as P.G Assistant in English on 26.02.2009. In October 2015, the petitioner submitted a representation to the respondents along with the comparative statement of pay fixation, requesting them to step up his pay on par with his junior, who was promoted as P.G Assistant only on 18.07.2012, long after the petitioner. The petitioner's request was forwarded to



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Chief Educational Officer on 15.06.2017. The Chief Educational Officer, after

examining the petitioner's request, recommended the stepping up of the petitioner's pay to the Director of School Education on 05.09.2017. The petitioner was entitled to rectification of pay anomaly by applying G.O.(Ms.) No.25, Personnel and Administrative Reforms (FR.IV) Department, dated 23.03.2015. However, the 1st respondent issued impugned proceedings dated 05.12.2018, rejecting the petitioner's request on the ground that the pay anomaly arose due to the petitioner's junior being granted an advance increment for the higher qualification possessed by him at the time of appointment. The 1st respondent stated that the pay anomaly could not be rectified under FR22(B)2(1) & (11). The rejection by the 1st respondent vide the impugned order dated 05.12.2018, was made without considering the recommendation of the Chief Educational Officer dated 05.09.2017, the recommendation of the Head Master of the School dated 15.06.2017, and the comparative pay fixation statement submitted by the petitioner. Hence, the petitioner filed the above writ petition challenging the impugned order.

3. The respondents in their counter stated that the pay anomaly occurred



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solely because the petitioners junior received a higher rate of pay at the time of appointment, the advance increments granted. According to the respondents, the Government Order (G.O (Ms.) No.25), Personnel and Administrative Reforms (FR.IV) Department, dated 23.03.2015, addressed the anomaly and decided the petitioner's request for rectification was not maintainable. The respondents therefore submitted that Government Order was not applicable for stepping up the petitioner's pay on par with his junior and hence, the writ petition was devoid of merits and deserve to be rejected.

4. The learned counsel for the petitioner relying on G.O.Ms.No.25, Personnel and Administrative Reforms (FR.IV) Department, dated 23.03.2015 and on the recommendations of the Head Master of the school dated 15.06.2017, contended that the calculation submitted to the Chief Educational Officer, clearly showed that G.O.Ms.No.25, Personnel and Administrative Reforms (FR.IV) Department, dated 23.03.2015, was squarely applicable to the petitioner. Therefore the impugned order could not be sustained.

5. The learned counsel for the respondents reiterated the submissions made



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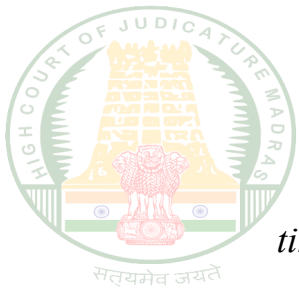
in the counter affidavit and prays for dismissal of the writ petition.

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6. I have heard both the learned counsels and perused the materials placed on record.

7. The facts are undisputed. The only question is whether the petitioner is entitled for stepping up his pay on par with his junior. G.O.Ms.No.25, Personnel and Administrative Reforms (FR.IV) Department, dated 23.03.2015, provides for stepping up the pay of the senior on par with his junior in cases where the senior gets promoted to the higher post before moving to Selection Grade/Special Grade of the lower post, and the junior gets promoted to the higher post after moving to Selection Grade/ Special Grade in the revised scales of pay, as a result of introduction of the Tamil Nadu Revised Scales of Pay Rules, 2009. Clause 5(iii) of the G.O.Ms.No.25, Personnel and Administrative Reforms (FR.IV) Department, dated 23.03.2015, reads as follows:

“5. (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



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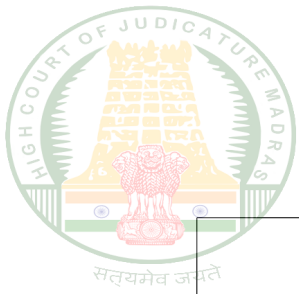
time to time, a higher rate of pay than the senior by virtue of grant

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should not be invoked to step up the pay of the senior officer; and"

8. According to the respondents, the petitioner was not entitled to rectification of the pay anomaly, because the rate of pay of the junior was higher because of grant of advance increment at the time of appointment. It is to be examined, whether the said contention can be sustained. The comparative statement of calculation submitted by the 3rd respondent is as follows:

<i>Detail</i>	<i>Date</i>	<i>Senior Pay/ Rate of Pay</i>	<i>Date</i>	<i>Junior Pay/ Rate of Pay</i>
Date of Joining as B.T	17.01.2002	Rs.5500/5500-175- 9000	17.01.2002	Rs.5500/5500-175-9000
Incentive pay rise			17.01.2002	Rs.5850/5500-175-9000
Salary after periodical increment	01.01.2004	Rs.5675	01.01.2004	Rs.6200
Pay Commission Wage Fixation	01.01.2006	Rs.16290	01.01.2006	Rs.16960
Salary after periodical increment	01.01.2007	Rs.16780	01.01.2007	Rs.17470
MA Incentive pay rise	02.01.2007	Rs.17800		
Salary after periodical increment	01.01.2008	Rs.18340	01.01.2008	Rs.18000
Salary after periodical increment	01.01.2009	Rs.18890	01.01.2009	Rs.18540
M.Sc Incentive pay			08.01.2009	Rs.19660



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<i>Detail</i>	<i>Date</i>	<i>Senior Pay/ Rate of Pay</i>	<i>Date</i>	<i>Junior Pay/ Rate of Pay</i>
rise				
Promotion as PG				
M.Phil., Incentive pay rise	09.03.2009	Rs.20840		
Salary after periodical increment	01.01.2010	Rs.21470	01.01.2010	Rs.20250
Salary after periodical increment	01.01.2011	Rs.22120	01.01.2011	Rs.20860
Salary after periodical increment	01.01.2012	Rs.22790	01.01.2012	Rs.21490
Selection Grade increment			17.01.2012	Rs.22790
Post Graduate Teacher Promotion Pay Fixation			18.07.2012	Rs.23480

9. Even as per the comparative table produced by the respondents, it is seen that till 01.01.2012, the petitioner was drawing more pay than the junior. The petitioner was drawing Rs.22,790/-, whereas his junior as on 01.01.2012, was drawing Rs.21,490/-. On 17.01.2012, the petitioner's junior was granted Selection Grade increment in the post of B.T Assistant, and the salary was fixed at Rs.22,790/-. Thereafter, the petitioner's junior was promoted as P.G. Assistant and the salary was fixed at Rs.23,480/-, which was more than the petitioners salary at Rs.22,790/-. It is therefore clear that, only because the petitioners junior was given Selection Grade increment in the lower post of B.T. Assistant on his



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promotion to the higher post of P.G. Assistant, he drew higher salary than the petitioner in the P.G. Assistant post. Hence, in my view, G.O.(Ms).No.25, Personnel and Administrative Reforms (FR.IV) Department, dated 23.03.2015, is squarely attracted, and the contention to the contrary of the respondents cannot be sustained.

10. In view of the above discussions, writ petition is allowed and the impugned order dated 05.12.2018, of the 2nd respondent is set aside. A direction is issued to the respondents 2 and 3 to step-up the pay of the petitioner at the level of his junior from 18.07.2012 and fix the pay of the petitioner at Rs.23,480/- and grant arrears of pay, within a period of 12 weeks, from the date of receipt of a copy of this order.

Writ petition is accordingly allowed. However, there shall be no order as to costs.

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Index:Yes/No
Neutral Citation:Yes/No
Speaking order:Yes/No
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N.MALA,J.

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