



W.P.No.8351 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2025

CORAM

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.8351 of 2021
and W.M.P.No.8922 of 2021

V.Sundararajan

...Petitioner

Vs.

1. The state of Tamil Nadu,

Rep., by its Principal Secretary to
Government,

School Educational Department,

Fort St. George, Secretariat,

Chennai- 600 009.

2. The Director of School Education,

DPI Campus College Road,

Chennai-600 006.

3. The Chief Educational Officer,

Vellore District,

Vellore.



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4. The Principal Accountant General (A& E)
Tamil Nadu,

O/o. The Principal Accountant General,

AG's Office Compled, 361, Anna Salai,

Teynampet, Chennai 600 018.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus directing to call for the records relating to the impugned order issued by the 1st respondent in Letter No.8224/PaKa1/2019 dated 29.06.2019 and quash the same and consequently, directing the respondents for stepping up the scale of pay of the petitioner in the post of Higher School Headmaster on par with his junior with effect from 27.05.1998 with all consequential revision of salary and retirement benefits including pension within a time frame to be fixed by this Court.

For Petitioner

: Mr.G.Murugan

for Mr.S.Nedunchezhiyan

For Respondents

: Mr.L.S.M.Hasan Fazil,

Additional Government Pleader

for R1 to R3

Mrs.J.Sreevidya

Central Govt. Standing Counsel

for R4



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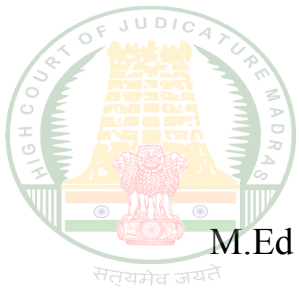
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ORDER

Aggrieved by the rejection of request for stepping up of petitioner's pay on par with his junior by the impugned order, the petitioner has filed the present writ petition.

2.The petitioner was appointed as B.T.Assistant in School Education Department, on 28.10.1969, and subsequently he was promoted as High School Headmaster, on 01.09.1998. While in service, he was granted incentive increments for acquiring higher qualification of M.A in the year 1980, and for M.Ed in the year 1984, as per the respective Government Orders issued during III and IV Pay Commissions.

3.The petitioner's junior, by name R.Savalappan was appointed as B.T.Assistant in the year 1972, and was later promoted as High School Headmaster, in the year 2002. The petitioner's junior was granted an incentive increment for acquiring M.A. Degree, in the year 1998 and



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M.Ed Degree in the year 1995, as per V Pay Commission. As the petitioner's junior drew incentive increment for the subsequent period, his salary was higher than that of the petitioner's in the post of Head Master, with effect from 27.05.1998. Whereas, the petitioner drew incentive increments for higher qualification as per IV Pay Commission, his junior drew the incentive increments for higher qualification in V Pay Commission and therefore, a pay anomaly arose between the petitioner and his junior with effect from 27.05.1998.

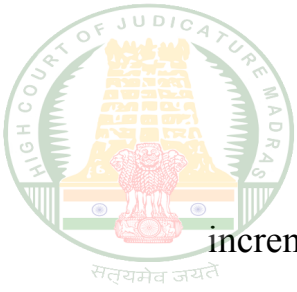
4.The petitioner submitted a representation seeking rectification of the pay anomaly in the post of High School Headmaster on par with his junior as per Government Orders in G.O.Ms.No.710, Finance (CMDC) Department, dated 23.08.1994 as well as G.O.Ms.No.162, Finance (Pay Cell) Department, dated 13.04.1998. The petitioner's representation was considered by the 3rd respondent/Chief Educational Officer, Vellore District. The 3rd respondent forwarded the proposal to the 2nd respondent, for revision of petitioner's pay at Rs.9,925/- with effect from 27.05.1998. Thereafter, also the 3rd



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respondent forwarded several proposals to the 2nd respondent. The petitioner retired from service on 31.05.2002, and even thereafter several proposals were forwarded to the 2nd respondent, one as late as on 14.09.2018, recommending to step up the petitioner's pay on par with his junior (Mr.R.Savalappan) along with a comparative statement prepared on the basis of G.O.Ms.No.162 Finance (Pay Cell) Department dated 13.04.1998. The 1st respondent, inspite of the recommendation of the 2nd respondent, passed the impugned orders, rejecting the petitioner's request for stepping up the pay / rectifying the pay anomaly. Aggrieved by the impugned orders, the petitioner has filed the above writ petition for the aforesaid.

5.The respondent filed a detailed counter affidavit contending *inter alia*, that the petitioner had totally misconstrued the scope of Rule 5(2) in G.O.Ms.No.162 Finance (Pay Cell) Department, dated 13.04.1998. The respondents contended that the intention of the Government was that the benefit under the said Rules, was to be extended only to the senior employees, who had acquired incentive



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increment in the pre-revised scale of pay before 01.01.1996, relating to VI pay Commission and did not intend to extend the date retrospectively to any number of years / Pay Commissions. The respondents contended that had the petitioner acquired the higher qualification after the V Pay commission came into force and before the VI Pay Commission i.e., prior to 01.01.1996, then he would have been eligible for stepping up of his pay on par with his junior who drew incentive increments after 01.01.1996, i.e after the VI Pay Commission. The respondents therefore submitted that there were no merits in the writ petition and the same was liable to be dismissed.

6.Learned counsel for the petitioner, relying on Rule 5(2) in G.O.Ms.No.162, Finance (Pay Cell) Department dated 13.04.1998, submitted that the petitioner was entitled to rectification of the pay anomaly and stepping up of his pay on par with his junior.

7.On the other hand, the learned counsel for the respondents reiterated the contentions raised in the counter affidavit and submitted



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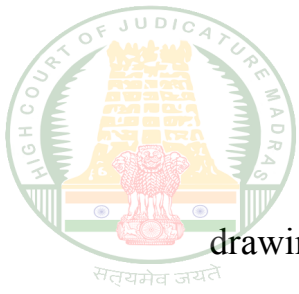
that the petitioner was not entitled to stepping up of his pay on par with his junior.

8.Heard learned counsel on either side and perused the materials available on record.

9.It is relevant to refer to Rule 5(2) in G.O.Ms.No.162, of Finance (Pay Cell) Department, for the purpose of considering the issue before this Court. The relevant portion of the rule reads as under:

"5(2) In cases where a senior employee who had drawn incentive increments in the pre-revised scale and drawn more pay than his junior prior to 1st January 1996 draws lesser pay than his junior in the revised scales of pay consequent on the sanction of incentive increments in the revised scales of pay to the junior for acquiring the same higher/special qualification after introduction of revised scales of pay, then the pay of the senior may be stepped up to the level of that of the junior from the date from which the junior draws such higher pay."

10.It is seen that as per Rule 5(2), if a senior employee who was drawing incentive increments in the pre-revised scale of pay was



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drawing more pay than his junior prior to 01.01.1996, draws lesser pay.

Pursuant to the sanction of incentive increments in the revised scales of pay to the junior, then the senior would be entitled to stepping up of pay on par with his junior. The petitioner originally joined on a salary of Rs.9,900/- whereas his junior joined on a salary of Rs.8,800/- only. It was only after the petitioner's junior was paid the incentive increments as per the VI Pay Commission, that the pay anomaly arose. Pursuant to the sanction of incentive increments in the revised scales of pay to the petitioner's junior with effect from 27.05.1998, the Pay anomaly emerged, wherein the petitioner was drawing a salary of Rs.9,650/- while his junior was drawing Rs.9,925/-. Therefore, in my opinion, Rule 5(2) in G.O.Ms.No.162, Finance (Pay Cell) Department dated 13.04.1998, is clearly attracted to the case. Ergo, the petitioner is entitled for rectification of his pay by stepping up his pay on par with his junior.

11. In the light of the above discussions, the impugned order is set aside. The writ petition is allowed, with directions to the respondents 1 to 3 to step up the pay of the petitioner in the Post of High School Head



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Master on par with his Junior, with effect from 27.05.1998 and also to pay consequential and salary benefits to the petitioner, within a period of 12 weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

13.02.2025

vsn

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No



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