



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-02-2025

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CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

WP No. 12735 of 2018

AND

WMP NO. 8164 OF 2018, WMP NO. 8165 OF 2018, WP NO. 6570 OF 2018, WP NO. 6571 OF 2018, WP NO. 6572 OF 2018, WP NO. 6573 OF 2018, WMP NO. 12253 OF 2019, WMP NO. 12256 OF 2019, WMP NO. 14271 OF 2019, WMP NO. 8162 OF 2018, WMP NO. 8163 OF 2018, WMP NO. 14923 OF 2018, WMP NO. 2895 OF 2019, WMP NO. 2900 OF 2019, WMP NO. 2906 OF 2019, WMP NO. 2910 OF 2019, WP NO. 5396 OF 2018, WP NO. 5397 OF 2018, WMP NO. 6634 OF 2018, WMP NO. 6635 OF 2018

1. Tmt.D.Leenus,
Additional Assistant Elementary
Educational Officer, Office of
Assistant Elementary Education
Thalaignayiru, Nagapattinam District.

Petitioner(s)

Vs

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

2. The District Elementary
Educational Officer, Thiruvarur.

3. The District Elementary
Educational Officer, Nagapattinam.



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WP No. 12735 of 2018



Respondent(s)

WP No. 6570 of 2018

1. Tmt.S.Chitradevi
Middle School Headmaster, panchayat
Union Middle School, Vadugoor,
Nagapattinam District

Petitioner(s)

Vs

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

2.The District Elementary
Educational Officer, Nagapattinam

3.The Assistant Elementary
Educational Officer, Thalaigayiru
Block, Nagapattinam District

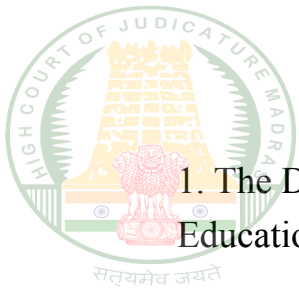
Respondent(s)

WP No. 6571 of 2018

1. Tmt.R.Malathi,
Middle School Headmaster, panchayat
Union Middle School,
Thiruvaidaimaruthu, Nagapattinam
District

Petitioner(s)

Vs



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

2. The District Elementary
Educational Officer, Nagapattinam

3. The Assistant Elementary
Educational Officer, Thalaignayiru
Block, Nagapattinam District

Respondent(s)

WP No. 6572 of 2018

1. Tmt. V.Radhai
Middle School Headmaster, panchayat
Union Middle School, Manarkudi,
Nagapattinam District

Petitioner(s)

Vs

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

2. The District Elementary
Educational Officer, Nagapattinam

3. The Assistant Elementary
Educational Officer, Thalaignayiru
Block, Nagapattinam District

Respondent(s)



WP No. 6573 of 2018

1. Thiru.C.Kandhavel,
Middle School Headmaster, Panchayat
Union Middle School, Nirmunai,
Nagapattinam District.

Petitioner(s)

Vs

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

2.The District Elementary
Educational Officer, Nagapattinam

3.The Assistant Elementary
Educational Officer, Thalaigayiru
Block, Nagapattinam District

Respondent(s)

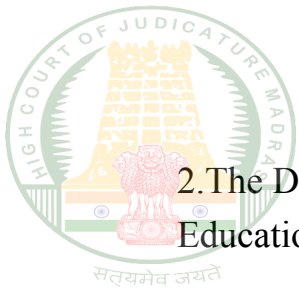
WP No. 5396 of 2018

1. Tmt.D.Sundari,
Middle School Headmaster, Panchayat
Union Middle School,
Arunthavampulam, Nagapattinam
District

Petitioner(s)

Vs

1. The Director of Elementary
Education, College Road, Chennai 6



WP No. 12735 of 2018



2.The District Elementary
Educational Officer, Nagapattinam

3.The Assistant Elementary
Educational Officer, Thalaignayiru
Block, Nagapattinam District

Respondent(s)

WP No. 5397 of 2018

1. Tmt.K.Premalatha,
Middle School Headmaster, Panchayat
Union Middle School, Maracheri,
Nagapattinam District

Petitioner(s)

Vs.

1. The Director of Elementary
Education, College Road, Chennai 6

2.The District Elementary
Educational Officer, Nagapattinam

3.The Assistant Elementary
Educational Officer, Thalaignayiru
Block, Nagapattinam District

Respondent(s)



WP No. 12735 of 2018

PRAYER: Writ petition is filed under Section 226 of the Constitution of India, for the issuance of certiorarified mandamus calling for the entire records connected with the impugned order passed by the 3rd respondent vide Na.Ka. No.3771/A1/2017, dated 10.05.2018 and quash the same and direct the 2nd respondent to refix/restore the sale of pay of the petitioner as Rs.27,420/- as on 01.07.2017.

WP No. 6570 of 2018

PRAYER: Writ petition is filed under Section 226 of the Constitution of India, for the issuance of certiorarified mandamus calling for the entire records connected with the impugned order passed by the 3rd respondent vide Na.Ka. No.0117/ A2/ 2014 dated 14.02.2018 and quash the same and direct the respondents to restore the order passed by the 3rd respondent vide Na.Ka. No.127/A2/ 2017 dated 24.07.2017 with consequential benefits.

WP No. 6571 of 2018

PRAYER: Writ petition is filed under Section 226 of the Constitution of India, for the issuance of certiorarified mandamus calling for the entire records connected with the impugned order passed by the 3rd respondent vide Na.Ka. No.0117/ A2/ 2014 dated 14.02.2018 and quash the same and direct the respondents to restore the order passed by the 3rd respondent vide Na.Ka. No.127/A2/ 2017 dated 24.07.2017 with consequential benefits.

WP No. 6572 of 2018

PRAYER: Writ petition is filed under Section 226 of the Constitution of India, for the issuance of certiorarified mandamus calling for the entire records connected with the impugned order passed by the 3rd respondent vide Na.Ka. No.0117/ A2/ 2014 dated 14.02.2018 and quash the same and direct the respondents to restore the order passed by the 3rd respondent vide Na.Ka. No.127/A2/ 2017 dated 24.07.2017 with consequential benefits.



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WP No. 6573 of 2018

PRAYER: Writ petition is filed under Section 226 of the Constitution of India, for the issuance of certiorarified mandamus calling for the entire records connected with the impugned order passed by the 3rd respondent vide Na.Ka. No.0117/ A2/ 2014 dated 14.02.2018 and quash the same and direct the respondents to restore the order passed by the 3rd respondent vide Na.Ka. No.127/A2/ 2017 dated 24.07.2017 with consequential benefits.

WP No. 5396 of 2018

PRAYER: Writ petition is filed under Section 226 of the Constitution of India, for the issuance of certiorarified mandamus calling for the entire records connected with the impugned order passed by the 3rd respondent vide Na. Ka. NO. 0117/ A2/ 2014, dt 14.2.2018 and quash the same and direct the respondents to restore the order passed by the 3rd respondent vide Na. Ka. No. 127 / A2/ 2017, dt 24.7.2017, with consequential benefits.

WP No. 5397 of 2018

PRAYER: Writ petition is filed under Section 226 of the Constitution of India, for the issuance of certiorarified mandamus calling for the entire records connected with the impugned order passed by the 3rd respondent vide Na. Ka. NO. 0117/ A2/ 2014, dt 14.2.2018 and quash the same and direct the respondents to restore the order passed by the 3rd respondent vide Na. Ka. No. 127 / A2/ 2017, dt 24.7.2017, with consequential benefits.



In all W.P's.:

For Petitioner(s): M/s.S.N. Ravichandran

For Respondent(s): Ms.P.Raja Rajeswari
Government Advocate

COMMON ORDER

These Writ Petitions have been filed challenging the order of the third respondent dated 10.05.2018 and 14.02.2018 and consequently to direct the second respondent to refix / restore the scale of pay of the petitioner as Rs.27,420/- and also to restore the order passed by the 3rd respondent vide Na.Ka. No.127/A2/ 2017 dated 24.07.2017 with consequential benefits.

2. As the issue involved in all these matters are one and the same, a common order is passed.

3. The petitioners were appointed as selection grade Teachers in the year 1988. After completing 10 years of service they got the selection grade in Secondary Grade Teacher and they have been promoted as the Primary School Headmaster in the year 2002, 2003 and 2005 respectively. Their promotion to the post of Middle School Headmaster was in the year 2007-2008 respectively. The Government has issued G.O.Ms.No.240 Finance (PC) Department dated 22.07.2013 and through which the Government employees were given one time measure to exercise re-option for revision of pay scale



with regard to selection grade / special grade, pay anomaly and they were given with six months time to re-exercise their option.

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4. As the selection grade pay of Secondary Grade Teacher and the Primary School Headmaster was equal, the petitioners are entitled to selection grade increment as per G.O.Ms.38 School Education Department dated 05.03.2001. The said Government Order gives the benefit of counting the period of service rendered in the selection grade of lower post for the purpose of granting selection grade in higher post, provided the time scale of selection grade of lower post and ordinary scale of pay of the higher post are identical. In the case of the petitioners their pay scale for selection grade secondary grade Teachers which is the lower post equal to the ordinary scale of pay of the higher post namely the primary school Headmaster, was one and the same. Hence their services rendered in selection grade Secondary Grade Teacher can also be counted along with the years of service rendered in the post of Primary School Headmaster for the purpose of giving selection grade to Primary School Headmaster.

5. The petitioners have got their selection grade in the Secondary Grade Assistant in the year 1998. Irrespective of the date of promotion to the post of Primary School Headmaster, their services will be counted from the selection grade secondary grade teacher for the purpose of awarding selection grade to the next level post of Primary School Headmaster. This is



in view of the fact that both the scale of pay in the selection grade and secondary grade teacher and the ordinary pay of primary School Headmaster are one and the same. Hence, if 10 years services of the petitioners are so counted for the purpose of granting them the selection grade in the post of Primary School Headmaster, all these petitioners will get their 10 years completed in the year 2008 itself. However, they have got their next level promotion to the post of Middle School Headmaster in the year 2007-2008 respectively, more specifically before they complete 10 years of service in the Primary School Headmaster.

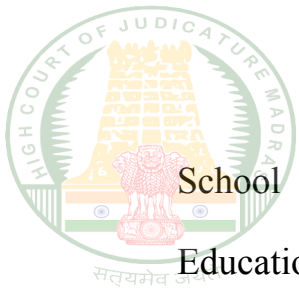
6. The Tamil Nadu Revised Scale of pay Rules, 2009 was notified subsequent to the issuance of G.O.Ms.No.234 Finance Department dated 01.06.2009. As per the recommendation of the 6th pay commission, the Government employees were given with the option to remain in the existing scale of pay until the date on which he earns his next or any subsequent increment in the existing scale of pay. In case any employee does not exercise his option, he shall be deemed to have opted for the revised scale of pay with effect from 01.01.2006.

7. A Government Order in G.O.Ms.No.240 Finance (PC) Department dated 22.07.2013 was issued in exercise of the Government's power to remove difficulties giving final opportunity for the employees for exercising re-option to come over to the revised scale of pay between 01.01.2006 and



31.05.2009 as an one time measure. However such exercise of re-option shall not result in fixation of lower pay than what has been fixed earlier. The maximum time given was six months from the date of issuance of the Government Order i.e. from 22.07.2013. If the revised pay has been fixed before exercising such an option and if the employee wishes to exercise the re-option, then the pay arrears drawn as per the earlier pay revision should be paid back for the period between 01.01.2006 and the date of attaining 10 years of service for the selection grade in the lower post. In fact the above Government Order issued in G.O.Ms.No.234 Finance Department dated 01.06.2009 and thereafter extension of time granted in G.O.Ms.No.240 Finance (PC) Department dated 22.07.2013, are only in accordance with Rule 22B of Fundamental Rules.

8. As the petitioners have got their promotion to the next level post in the years 2007 and 2008 respectively before getting their selection grade in the earlier post, the petitioners have exercised their option to remain in the existing scale of pay until the date on which they earn their next increment and then get their pay revised. All these petitioners will get their next level subsequent increment on 20.07.2008, 21.07.2008 and 22.07.2008 respectively. As per the said option their scale of pay for the post of Middle School Headmaster will be revised after they get their increment in the year 2008. At that point of time the petitioners will also get their selection grade in view of their completion of 10 years of service in the post of Primary



School Headmaster by getting the advantage of G.O.Ms.No.38 School Education Department dated 05.03.2001. In fact they have exercised their option within six months (grace time given under G.O.Ms.No.240 dated 22.07.2013). They also remitted back the arrears of revised pay between the period from 01.01.2007 to 20.07.2008, 21.07.2008 and 22.07.2008 respectively. They have also got their increment sanctioned as per their option and their pay also subsequently got revised. But all of a sudden in the year 2018 the impugned order is passed for recovery.

9. It is stated in the impugned order that the petitioners cannot exercise option after 01.01.2006 and that the petitioners' services cannot be counted for the selection grade in the post of Primary School Headmaster as they got their promotion to the next level post before the completion of 10 years of service. The above order has been passed completely ignoring the Government Orders in G.O.Ms.No.234 Finance Department dated 01.06.2009 and G.O.Ms.No.240 Finance (PC) Department dated 22.07.2013. Even G.O.Ms.No.38 School Education Department dated 05.03.2001, also was not properly understood by the second respondent.

10. The further reason stated in the recovery order is that the petitioners did not apply in the prescribed form and they have exercised their option by giving letters. But the fact remains that they have exercised the option before six months from the date of issuance of G.O.Ms.240 as per the



conditions stipulated in the above Government Order. Even if the second respondent thinks it fit that the petitioners ought to have given their reoption in a prescribed form, at the best the petitioners can only return the option by requesting the petitioners to represent it in the required form. But the authority who had sanctioned the increment and pay revision in terms of G.O.Ms.No.240 Finance (PC) Department dated 22.07.2013, had rejected the petitioners' claim.

11. The impugned order has been passed by the third respondent without due application of mind and without understanding the cumulative effect of G.O.Ms.No.234 Finance Department dated 01.06.2009, G.O.Ms.No.240 Finance (PC) Department dated 22.07.2013 and G.O.Ms.No.38 School Education Department dated 05.03.2001 and Rule 22 B of the Fundamental Rules. As the impugned order has not been passed by proper application of mind and by invoking correct provisions, the same is liable to be set aside.

12. In the result, these writ petitions are **allowed** and the impugned order passed by the third respondent vide Na.Ka. No.3771/A1/2017, dated 10.05.2018 and vide Na.Ka. No.0117/ A2/ 2014 dated 14.02.2018, are hereby quashed and the 2nd respondent is directed to refix/restore the scale of pay of the petitioner in W.P.No.12735/2018 as Rs.27,420/- as on 01.07.2017 and the respondents are directed restore the order passed by the 3rd



respondent vide Na.Ka.No.127/A2/ 2017 dated 24.07.2017 and grant the consequential benefits to the petitioners, within a period of six weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed.

12-02-2025

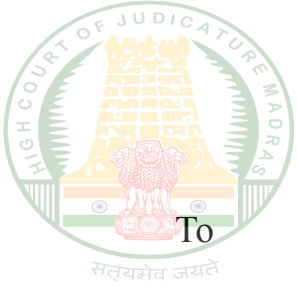
Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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WP No. 12735 of 2018



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2.The District Elementary
Educational Officer, Thiruvarur.

3.The District Elementary
Educational Officer, Nagapattinam.

4.The Assistant Elementary
Educational Officer, Thalaignayiru
Block, Nagapattinam District



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