



W.P.No.18934 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.18934 of 2020

M.Jayaraj

...Petitioner

-Vs-

1.The Chief Educational Officer,
Vellore District,
Vellore – 602 001.

2.The Chief Educational Officer,
Ranipet District,
Ranipet – 602 001.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent relating to the order issued in proceedings Na.Ka.No.9855/C5/2020 dated 20.03.2020 quash the same and to direct the respondents herein to refix the pay of the petitioner in the higher post of BT Middle School Headmaster equal to the pay of his junior in the said post with effect from the date of drawal of higher pay by his junior in the said post and accordingly refix the pay of the petitioner in the post of Block Educational Officer after implementation of G.O.Ms.No.19, School Education Department, dated 07.02.2019 and G.O.Ms.No.20, School Education Department dated 07.02.2019 with effect



W.P.No.18934 of 2020

from 07.02.2019 and grant all consequential monetary benefits with payment of arrears to the petitioner within a limited time frame and pass such further orders.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.T.M.Rajangam,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order passed by the first respondent vide proceedings in Na.Ka.No.9855/C5/2020 dated 20.03.2020 and further directing the respondents herein to refix the pay of the petitioner in the higher post of BT Middle School Headmaster equal to the pay of his junior in the said post with effect from the date of drawal of higher pay by his junior in the said post and accordingly refix the pay of the petitioner in the post of Block Educational Officer after implementation of G.O.Ms.No.19, School Education Department, dated 07.02.2019 and G.O.Ms.No.20, School Education Department dated 07.02.2019 with effect from 07.02.2019 and grant all consequential monetary benefits with payment of arrears to the petitioner.

2. The Petitioner was initially appointed as Secondary Grade Assistant on 25.10.1988 and attained Selection Grade Scale of pay in the said



W.P.No.18934 of 2020

post from 25.10.1998. Thereafter he acquired B.A. B.Ed qualification on 26.11.1999 and MA qualification by 25.10.2002. His pay was fixed as the pay of Primary School Headmaster on 01.10.2005 and was given Selection Grade Scale of Pay in the post of Primary School Headmaster with effect from 27.10.2008. Thereafter, he was promoted to the post of BT Assistant on 01.10.2009 and further promoted as Middle School Headmaster 02.06.2010. He was later deputed to the post of Block Educational Officer on 12.06.2018 and has been rendering service in the Education Department for more than 32 years.

3. The petitioner submitted a detailed representation dated 27.12.2019 to the first respondent for grant of equal pay on par with his junior Tmt.Dhanalakshmi and the same was rejected by the District Chief Educational Officer of Unified Vellore District in and by proceedings in Na.Ka.No.9855/C5/2020 dated 20.03.2020, on the ground that while the Petitioner was initially appointed as Secondary Grade Assistant in Pernambet Union and presently serving as Block Education Officer, Nemili Union, whereas Tmt.Dhanalakshmi was appointed as Secondary Grade Assistant at K.V.Kuppam Union and there is no provision in the Rules for a senior to



W.P.No.18934 of 2020

claim equal pay on par with his junior if they belong to different unions as

each Union is a separate unit in the Elementary Education Department.

Aggrieved by the same, the Petitioner has come up with the present Writ Petition.

4. Learned counsel appearing for the petitioner would submit that he was transferred to Gudiyatham Union from Pernambet Union in the year 1990 and his junior, Tmt.T.Dhanalakshmi came on transfer to Gudiyatham Union from K.V.Kuppam Union during the year 1991. Hence, it is not the case that he has been transferred to the union in which his junior Tmt.Dhanalakshmi was serving, and on the other hand, it was his junior Tmt.Dhanalakshmi who was transferred from a different Union to Gudiyatham Union, in which the Petitioner was already serving as Secondary Grade Assistant from the year 1990-1994.

5. It is submitted that in terms of the date of the initial appointment as Secondary Grade Assistant as well as the date of transfer to Gudiyatham Union, the Petitioner is senior to Tmt.Dhanalakshmi. More importantly, both Tmt.Dhanalakshmi and the Petitioner have been serving in the same Union



W.P.No.18934 of 2020

from the year 1991 till the date on which the anomaly of junior drawing more pay than senior arose, i.e., on 01.10.2013. Even after the pay anomaly arose, both of them were serving in the same Union wherein she was drawing higher pay than the Petitioner till the date of promotion to the post of Block Educational Officer i.e., on 12.06.2018. Hence the reasoning assigned by the First Respondent that they were serving in different union and hence there is no provision for claiming equal pay on par with his junior is unsustainable in law and on facts.

6. It is further submitted that, though the Government has declared that the post of Block Educational Officer is a promotion to the post of Middle School Head master and fixed the pay of Block Educational Officer on par with the scale of pay attached to the post of Headmaster of High School, the said Government Orders, namely G.O.MS.No.19 School Education (EE.1(1)) Department dated 07.02.2019 and G.O.MS.No.20 School Education (EE.1(1)) Department dated 07.02.2019, have not been implemented in the Petitioner's District and in view of the same, the Petitioner has been drawing only the pay attached to the feeder category post of Headmaster of Middle School. The Petitioner's representation for the



W.P.No.18934 of 2020

aforementioned claim has not been considered by the Respondents till date.

WEB COPY

7. Learned counsel contended that the very purpose of the Tamil Nadu Revised Pay Rules and various GOs to rectify the anomaly of seniors drawing more pay than the juniors for no fault of theirs and G.O.Ms.No.320 Finance Department dated 02.04.1990 and G.O.Ms.No.25(Personal and Administrative Reforms Department) dated 23.02.2015 clearly provided for the refixation of pay of the senior on par with their juniors. G.O.Ms.No.19 School Education (EE.1(1)) Department dated 07.02.2019 and G.O.Ms.No.20 Education (EE.1(1)) Department dated 07.02.2019 have been implemented in various districts of Tamil Nadu and pay of BEO has been refixed in terms of the GOs on par with the pay scale attached to the post of Head Master of High School. The non-rectification of the pay anomaly on par with his junior and the non-fixation of his pay attached to the post, which the petitioner was serving, have exposed him to grave hardship, loss and severe mental agony.

8. It was further submitted that the rejection of the Petitioner's claim is owing to the 1st Respondent's misplaced reliance on a circular



W.P.No.18934 of 2020

proceeding Na.Ka.No.16907/C1/2016 dated 11.08.2016 issued by the Head of the Department, which provided that rectification of pay anomaly cannot be done for persons who were appointed in a different Union and thereafter, on transfer joined another Union and compared the pay given to the junior who was already appointed and serving in the said Union. The said circular is only with reference to G.O.Ms.No.320 Finance (PC) Department dated 02.04.1990, and the said circular is not with reference to G.O.Ms.No.25 (Personal and Administrative Reforms Department) dated 23.02.2015. That apart, the circular also bars the claim of re-fixation of the senior who is transferred to the present Union by comparing the pay drawn by the person who was initially appointed and serving in the said Union and in any event, no circulars issued by the Department can override the Executive Instructions contained in Government Orders.

9. The circular of the Head of the Department is not applicable to this case as the same was issued only with reference to G.O.Ms.No.320 Finance (PC) Department dated 02.04.1990, and in the present case, the senior (the Petitioner) is already serving in the Thiruvallur Union and the junior was transferred to the present Union a few years later. On the date of



W.P.No.18934 of 2020

the pay anomaly, both were serving in the same Union.

WEB COPY

10. It is submitted that the reasoning assigned in the endorsement returning the Petitioner's representation for the rectification of pay anomaly is untenable and also is violative of the clear and categorical ratio of this Court in judgment dated 07.02.2018 in WP(MD)No.742 of 2018. In view of the facts that the ratio laid down in the said judgment is squarely applicable to the facts and circumstances of this case. The operative portion of the same is extracted hereunder:

“5. The first respondent has proceeded on the footing that since the petitioner got transferred from Pudukottai to Kayathar Union, it is not possible to set right the pay anomaly. The reason assigned by the first respondent in the impugned order is un sustainable in law. Even though the writ petitioner came to Kayathar Union by way of transfer and has to be placed at the bottom of the seniority list, the fact remains that the Shanthi got appointment as Secondary Grade Teacher at Kayatharu Union only later in point of time. Therefore, by no stretch of imagination the said Shanthi could have stolen a march over the petitioner.

The order impugned in this writ petition is quashed. The respondents are directed to set right the pay anomaly and step-up the pay of the petitioner on par with said Shanthi. Such an order shall be issued by the respondents within a period of eight weeks.

6. This Writ petition is allowed accordingly. No costs.”



W.P.No.18934 of 2020

11. Learned counsel appearing for the petitioner would then place reliance on the order passed by this Court in a similar case in W.P.No.35512 of 2019 (Mr.P.V.Venkatesan Vs. The Principal Secretary to Government, School Education Department, Fort St.George, Chennai – 600 009) dated 21.01.2020.

12. Learned counsel submitted that against the order passed by this Court in W.P.No.35512 of 2019, a writ appeal in W.A.No.1122 of 2021 preferred by the respondents and the same was dismissed by the Division Bench of this Court on 31.08.2021.

13. Challenging the aforesaid writ appeal in W.A.No.1122 of 2021, a special leave petition has been filed in SLP(C)No.001983/2023 vide Diary No.1667 of 2022, which was dismissed by the Hon'ble Supreme Court on 23.01.2023.

14. A counter affidavit was filed on behalf of the respondents dated 09.07.2021.



W.P.No.18934 of 2020

15. Learned Government Advocate appearing for the respondents

would submit that the petitioner's claim to refix the pay in the post of Block Educational Officer after the implementation of G.O.Ms.No.19, School Education Department dated 07.02.2019 and G.O.Ms.No.20, School Education Department dated 07.02.2019, has been considered and accepted and an order was issued to refix the pay with reference to the above said Government Order vide 2nd respondent proceedings made in Na.Ka.No.720/A1/2020 dated 04.02.2021.

16. Heard both sides and perused the materials available on record.

17. The judgment relied on by the learned counsel for the petitioner in the case of Mr.P.V.Venkatesan Vs. The Principal Secretary to Government, School Education Department, Fort St.George, Chennai – 600 009 in W.P.No.35512 of 2019, wherein the writ appeal was also dismissed by the Division Bench of this Court on 31.08.2021, and subsequently dismissed by the Hon'ble Supreme Court of India on 23.01.2023. This Court in W.P.No.35512 of 2019 held as follows:

9. In view of the above discussion, the impugned proceedings of the fifth respondent vide in No.A.Thi.Mu.No.473/A/2015 dated 15.09.2015 is hereby



WEB COPY



W.P.No.18934 of 2020

quashed and the fifth respondent is directed to forward the proposal to the third respondent and the third respondent is directed to pass appropriate orders stepping up the pay of the petitioner on par with his junior and grant the petitioner with all attendant benefits. The petitioner shall make a representation to the fifth respondent along with a copy of this order. The fifth respondent shall collect the particulars and forward the same to the third respondent within a period of four weeks thereafter. The third respondent, on receipt of the proposal shall pass final orders by stepping up the pay within a period of six weeks thereafter, by granting all attendant benefits to the petitioner.

The above order passed by this Court is squarely applicable to the present case on hand.

18. This Court is also inclined to pass a similar order that was passed by this Court in the above W.P.No.35512 of 2019, and the impugned proceedings of the first respondent vide Na.Ka.No.9855/C5/2020 dated 20.03.2020 is hereby quashed and this Court issues the following direction:

“The respondents are directed to refix the pay of the petitioner in the higher post of BT Middle School Headmaster equal to the pay of his junior in the said post with effect from the date of drawal of higher pay by his juni.or in the said post and grant the petitioner all consequential monetary benefits with payment of arrears within a period of six (6) weeks from the date of receipt of a copy of this order.”



WEB COPY



W.P.No.18934 of 2020

J.SATHYA NARAYANA PRASAD, J.

In the result, the writ petition stands allowed with the above observations and direction. No costs. Consequently, connected miscellaneous petition is closed.

27.01.2025

cda

Index : Yes/No

Speaking/Non Speaking order

To

1.The Chief Educational Officer,
Vellore District,
Vellore – 602 001.

2.The Chief Educational Officer,
Ranipet District,
Ranipet – 602 001.

W.P.No.18934 of 2020