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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-03-2025

CORAM

THE HONOURABLE MRS JUSTICE V.BHAVANI SUBBAROYAN

WP NO. 18589 of 2020

Aranga Vijayaraghavan
49, South Street, Gopalasamuthram,
Mannargudi

Petitioner(s)

Vs

1. The Director of School Education
DPI Campus, College Road, Chennai 600006

2. The Chief Educational officer
Thiruvavarur District, Thiruvavarur

3. The District Educational officer
Mannargudi Educational District, Mannargudi- 614 001

4. National Higher Secondary School
Rep by its Correspondent, Gandhi Salai, Mannargudi 614 001

Respondent(s)

PRAYER:

This Writ Petition has been filed seeking for issuance of a Certiorarified Mandamus, to call for the records of the 3rd respondent in Na.Ka.No.3982/B3/2020 dated 05.10.2020 and quash the same and consequently, direct the respondents to fix the pay scale of the petitioner herein on par with the pay scale of Mr.R.Jayapal, Tamil Pandit, E.R.Higher Secondary School, Trichy-2 with effect from 19.01.1994.



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For Petitioner(s):

S. Thirumavalavan

For Respondent(s):

S.Prabhakaran, for R1 to 3

ORDER

In this Writ Petition, the petitioner has challenged the order dated 05.10.2020 of the 3rd respondent in Na.Ka.No.3982/B3/2020 and also prays to direct the 3rd and 4th respondents to fix the pay scale of the petitioner on par with Mr.R.Jayapal, with effect from 19.01.1994.

2. According to the petitioner, he was appointed on 17.12.1981 as Tamil Pandit in E.R.Higher Secondary School, Trichy. Two years later, i.e. on 25.03.1983, the said Mr.Jayapal was also appointed to the same post. The petitioner was transferred on 19.09.1985 to National Higher Secondary School, Mannargudi. The petitioner later attained the age of superannuation on 31.05.2007 and has retired from service. The petitioner had sent a representation to the 3rd respondent stating that there is disparity in the fixation of salary of the petitioner when compared with the said Jayapal who

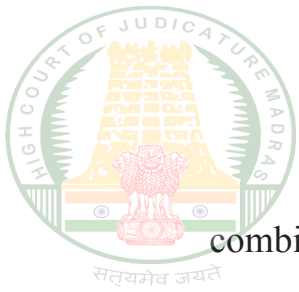


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was two years Junior to the petitioner. The 4th respondent school also forwarded a proposal on 13.07.2009 to the 3rd respondent. On consideration of the same, the 3rd respondent vide proceedings dated 10.07.2009, has stated that the petitioner was not eligible for refixation of pay, while the petitioner claimed that he is entitled to the benefit of G.O.Ms.No.710 dated 23.08.1994. Aggrieved by the same, the petitioner filed a writ petition in W.P.No.18267 of 2010, which came to be disposed of by this Court vide order dated 10.07.2009, remitting the matter to the 3rd respondent to pass orders afresh since the impugned order therein, was a non-speaking one.

3.Pursuant to the orders of this Court, the 3rd respondent once again rejected the claim of the petitioner vide order dated 05.10.2020. Challenging the same, the petitioner has come forward with the present Writ Petition.

4.A detailed counter affidavit has been filed on behalf of the 3rd respondent, wherein, it is stated that the petitioner was initially appointed at E.R.Higher Secondary School, Trichirapalli which is a private aided institution and later, on the request made by the petitioner was transferred to



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combined Nagapattinam District (now in Tiruvarur District) on mutual basis with effect from 20.9.1985 and retired from service on 31.05.2007 on attaining the age of superannuation. The 4th respondent had forwarded the representation of the petitioner dated 11.8.2000 seeking stepping of his pay on par with Thiru R. Jayabal, who was working in a different management school with reference to G.,O.Ms.No..710 Finance Department dated 23.8.1994. Though the benefit of the said G.O. was extended to teachers working in Government aided schools, the petitioner's claim was rejected. As per the Tamilnadu Recognized Private Schools Regulation Act, 1973 and Rules 1974, the fixation of pay of teachers working in the Government aided schools should be done by the Secretary of the School Committee of that school. At the same time, while fixing the pay of a teacher on the ground of junior-senior pay parity, the School Secretary should compare the teachers of same category working in the same school alone. The petitioner is not at all eligible for the fixation on par with ThiruJayapal, who is not at all working in the same Unit of Establishment as on the date on which the pay difference occurs te 19.01.1994. In spite of the above fact, the petitioner has been making representations and also approached this Court.



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5.It is further submitted that pursuant to the orders of this Court in the earlier Writ Petition, the request of the petitioner was examined with reference to the Rules and guidelines issued by the Government order. The senior and junior can be decided if both the persons are working in the same Unit of Establishment Admittedly, the petitioner had worked at National Higher Secondary School, Mannargudi whereas the said Junior R. Jayapal was working at ER Higher Secondary School, Trichirapalli as on 19.1.1994. Hence the pay of a person who is working in another Unit of Establishment as on 19.1.1994 cannot be compared for the purpose of stepping up of pay on par with junior. Hence the request of the petitioner was rightly rejected by the 3rd respondent, which requires no interference. With these averments, the 3rd respondent sought for dismissal of the Writ Petition.

6.Heard the learned counsel for the petitioner and the learned Government Advocate (Education) for the respondents 1 to 3 and perused the entire materials placed on record.

7.The petitioner claims pay fixation of his pay on par with his junior Thiru R.Jayapal since the petitioner joined in service in year 1981 while his



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junior joined in the year 1983. Admittedly, the petitioner on his request, got transferred from E.R.Higher Secondary School, Trichirapalli to National Higher Secondary School, Mannargudi on mutual basis with effect from 20.09.1985. According to the respondents, the question of pay fixation of junior or senior depends upon the unit of establishment and only if both employees are working in the same unit of establishment and since the petitioner and his junior were working in different units of establishment as on 19.01.1994, the claim of the petitioner cannot be considered and the benefit of G.O.Ms.No.710, dated 23.08.1994 cannot be extended to him. The issue regarding senior and junior can be decided if both the employees are working in the same unit of establishment. As per Section 2(3) (c) (i) of the Tamil Nadu Recognised Private School (Regulation) Act 1973, *all the schools under the Educational Agency in each Revenue District shall be treated as one unit for the purpose of seniority, promotion, transfer etc, where there are more than one such units, transfer from one unit to another may be made after obtaining prior approval of the Chief Educational Officers of the respective Districts.* Section 2(4) provides that *for the purpose of creation of endowment, each school will be treated as a unit.*



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8. Therefore, on mutual transfer, since the petitioner was working at National Higher Secondary School, Mannargudi while the said junior R. Jayapal was working at E.R. Higher Secondary School, Trichirapalli as on 19.1.1994, the pay of the petitioner cannot be compared for the purpose of stepping up of pay on par with his junior who was working in another unit of establishment. The benefit of G.O. Ms. No. 710 dated 23.08.1994 would be extended when pay anomaly arises where a junior employee was drawing more pay than a senior employee in same unit of establishment. But in the present case, the petitioner and the so-called junior Jayapal had joined in service in different units of establishment and on his request, the petitioner got transferred to 4th respondent school at Mannargudi while the junior R. Jayapal was transferred to E.R. Higher Secondary School, Trichirapalli. Therefore, since the petitioner and the junior with whom, the petitioner compared, were working in two different management under two different appointment authorities, the benefit of the said G.O. Could not be extended to the petitioner. According to the respondents, as per the Rules, the claim of the petitioner was not considered. Further, as per G.O. Ms. No. 1289, dated 18.06.1982, the seniority of a teacher joining in a different management school by transfer, would be only from the date of joining in the new unit



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of establishment. Therefore, the petitioner cannot claim pay fixation on par with the so-called junior who was working in another unit of establishment.

9.Further, the petitioner contended that no opportunity of hearing before passing the impugned orders was provided to him. But according to the respondents, in compliance of the directions given by this Court in WP No.18267 of 2010 vide order dated 17.03.2020, the petitioner was given an opportunity to represent his case vide proceedings dated 21.09.2020 and directed the petitioner to give explanation and also to produce documents in support of his claim for pay fixation by rectifying the pay anomaly. The petitioner has also given explanation on 23.09.2020 and on consideration of the same, the impugned order dated 05.10.2020 has been passed by the 3rd respondent and the explanation of the petitioner dated 23.09.2020 has been referred in the impugned order.

10.In the light of the above, this Court is of the view that the 3rd respondent has examined the claim of the petitioner and rightly passed the impugned order, dated 05.10.2020 which requires no interference. In fact, it is pertinent to note that while the petitioner was transferred to the 4th



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respondent school on mutual transfer and the G.O.Ms.No.710 was issued in the year 1994, the petitioner started claiming pay fixation on rectification of pay anomaly on the ground that his junior R.Jayapal was drawing more salary than him, only from the year 2000 onwards. The claim of the petitioner has been rightly rejected on the ground that pay of a person who is working in another unit of establishment, cannot be compared for the purpose of setting up of pay on par with junior. Admittedly, as on 19.01.1994 the petitioner and the so-called junior R.Jayapal were not working in the same unit of establishment, but they were working in different units of establishment and therefore, this Court does not find any infirmity in the impugned order in order to interfere with the same.

11.For the foregoing reasons, this Court does not find any scope to interfere with the impugned order. Accordingly, the Writ Petition stands dismissed. No costs.

04-03-2025

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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To

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Thiruvarur District, Thiruvarur

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