



W.P.No.30534 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2025

CORAM

THE HONOURABLE MS. JUSTICE P.T. ASHA

W.P.No.30534 of 2023 and
W.M.P.No.30166 of 2023

K.Vijayakumar

...Petitioner

Vs.

1. The Director of Elementary Education,
Chennai - 600 006.

2. The District Educational Officer,
Polur, Tiruvannamalai District.

3. The Block Educational Officer-II,
Polur, Thiruvannamalai District

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to 2nd respondent Pro.Na.Ka.No.474/A3/2023, dated 24.07.2023 to quash the same and issue consequential direction to the 2nd respondent rectify the anomaly of "junior drawing more pay than senior" by stepping up the pay of the petitioner (senior) on par with his junior (Mrs.Kokila) with effect from 01.10.2017 and disburse the monetary benefits thereof with interest, within a time frame.

For Petitioner : Mr. P.Murali



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For R1 to R3 : Mr.S.Prabhakaran,
Government Advocate

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ORDER

The writ petition is filed for the below relief:

"calling for the records relating to 2nd respondent Pro.Na.Ka.No.474/A3/2023, dated 24.07.2023 to quash the same and issue consequential direction to the 2nd respondent rectify the anomaly of "junior drawing more pay than senior" by stepping up the pay of the petitioner (senior) on par with his junior (Mrs.Kokila) with effect from 01.10.2017 and disburse the monetary benefits thereof with interest, within a time frame."

2. The brief facts which has culminated in the filing of this writ petition are set out below:

2.1. It is the case of the petitioner that he was initially appointed as Secondary Grade Teacher on 07.10.1996 in Polur Block and after ten years of service, he had been awarded with selection grade in the said post. The Petitioner also got incentive increment for additional qualification of M.A.B.Ed. On 30.06.2012, the petitioner had been promoted as Primary School Headmaster. It is the contention of the petitioner that one Mrs.R.Kokila was initially appointed as Secondary Grade Teacher on 10.10.1996, She also



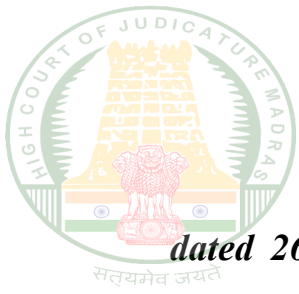
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got incentive increment of her additional qualification of M.A.B.Ed and has been promoted as Primary School Headmaster on 01.06.2017. Now, as per 7th Pay Commission, the said Mrs.K.Kokila has been drawing salary to the tune of Rs.71,600/- whereas the petitioner was drawing a salary of only Rs.65,500/-.

3. To ensure pay parity, the petitioner had made a representation dated 27.11.2018 to the 2nd respondent through the 3rd respondent. The 3rd respondent by order dated 29.05.2019 had rejected the petitioner's claim. Aggrieved, the petitioner had filed W.P.No.21460 of 2019 to quash the order dated 29.05.2019 and to fix the pay on par with the petitioner's junior. The same was set aside by order dated 16.06.2022 by this Court. Despite directions issued by this Court, the respondent had not processed the representation of the petitioner. Hence, the petitioner filed Contempt Petition No.1310 of 2023, meanwhile, the 2nd respondent has passed an order in Pro.Na,Ka.No.164/A2/2022 dated 24.07.2023 rejecting the claim on untenable grounds. Therefore, the petitioner is before this Court.

4. Heard the learned Counsels on either side and perused the records.

5. Learned counsel for the petitioner brought to the notice of this Court the order passed by a coordinate Bench of this Court in ***W.P.No.2867 of 2022***



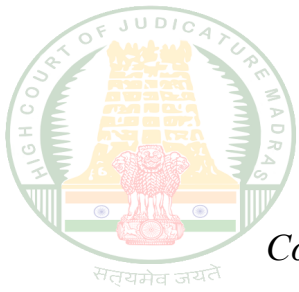
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dated 26.06.2024, wherein a similar issue has been considered and orders/clarifications have been passed and, therefore, submits that the benefit of the said order may be given to the petitioner as well.

6. For better appreciation, the relevant paragraph of the order passed by this Court in **W.P.No.2867 of 2022 dated 26.06.2024** relied upon the learned counsel for the petitioner is extracted hereunder:-

" 10. As rightly contended by the learned counsel for the petitioner, this Court had an occasion to consider the same question in S.P.Meera vs. The State of Tamil Nadu. In that case, the junior acquired a higher qualification at a later date, and as such, was granted advance increments in a higher quantum as per the revised pay rules, resulting in a pay anomaly. The respondents are reading the proviso to Rule 13(1) of the revised pay rules to deny the stepping up. Whenever the junior's pay increases on account of the advance increment that are granted to her, then stepping up in pay need not be resorted to. But the proviso does not address the situation where the senior also possesses the same qualification and has also drawn the advance increment. Therefore, by misapplying the proviso, the benefit is denied by the respondents.

11. On the contrary, the judgment of the Hon'ble Supreme

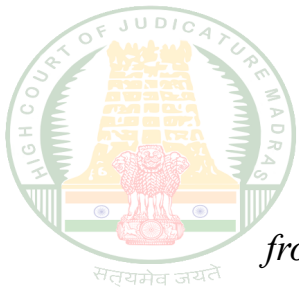


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Court of India in Union of India vs. P.Jagdish and Others reported in AIR 1997 SC 1783 specifically considered the said situation and held that even in such cases, stepping up of pay has to be resorted to. This Court considered the question in detail and, after considering FR 27(2) , ordered that relief be granted to the senior. As a matter of fact, placing reliance on FR.22(B) as well as G.O.Ms.25 is out of place in the instant case. It is not a case where the pay anomaly arises on account of promotion being granted after the difference in selection grade or special grade pay. This is the case where the anomaly arise only on account of the junior acquiring the higher qualification at a later date and being granted advance increments at a later date after the revised rates of increment. That situation is no governed by F.R.22(B) or G.O.Ms.25.

12. In fact, the proviso to the revised pay rules in Rule 13(1) also does not address the said situation, and that question has been considered by this Court in S.P.Meera (cited supra) and relief has been granted to the petitioner. The ration in the said case would apply, to the present case as well. Accordingly, this petitioner is entitled to succeed. In the said case, also following the dictum of the Hon'ble Supreme Court of India in the case of State of Kerala and Others vs. E.K.Bhaskaran Pillai reported in (2007) 6 SCC 524, by balancing the interest since the petitioner is approaching this Court belatedly, the arrears were restricted



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from the date of filing of the writ petition. The same would apply in the present case as well.

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7. In light of the above, following the aforesaid decision, the impugned order dated 24.07.2023 is set aside and the second respondent shall consider the request of the petitioner dated 27.11.2018 afresh and pass orders thereon by stepping up the pay of the petitioner on par with his junior with effect from 01.10.2017 and accordingly refixing the pay and granting all the benefits. However, the petitioner will be entitled to the arrears of pay with effect from the date of filing the Writ Petition. i.e., only with effect from 17.10.2023.

8. Accordingly the Writ Petition is allowed. Consequently, the connected Miscellaneous petition is closed. No costs.

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Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

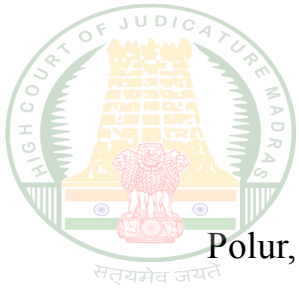
Neutral Citation Case : Yes/No

To

1. The Director of Elementary Education,
Chennai - 600 006.

2. The District Educational Officer,

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Polur, Tiruvannamalai District.

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3. The Block Educational Officer-II,
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