



WEB COPY



1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2025

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 31665 of 2024

G.Malathi

... Petitioner

..Vs..

1. The Director of School Education
DPI Campus
College Road, Chennai – 6.
2. The District Educational Officer (Elementary)
Thiruvannamalai District,
Thiruvannamalai.
3. The Block Educational Officer-II
Kalasapakkam Block
Thiruvannamalai District.
4. The Director of Elementary Education,
DPI Campus, College Road, Nungambakkam,
Chennai – 600 006.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the respondents to rectify the anomaly of junior (T.Surada) drawing more pay than the petitioner (senior) by stepping up the pay of the petitioner on par with her junior as on



06.12.2016 in the cadre of middle school Headmaster and fix his pay as on 06.12.2016 at Rs.90,000/- in the scale of pay and disburse the consequential monetary benefits in the light of judgment passed in W.P.No. 8666 of 2023, by considering the petitioner representation dated 09.08.2024 within a limited time frame.

For Petitioner

:: Mr. P.Murali

For RR 1 to 3

:: Mrs.S.Mythreye Chandru
Special Government Pleader

ORDER

The Writ Petitioner has been filed in the nature of Mandamus seeking a direction against the respondents to rectify the anomaly of Junior drawing more pay than the petitioner /senior by stepping up the pay of the petitioner on par with the junior as on 06.12.2016 in the cadre of middle school Headmaster and fix the pay of the petitioner as on 06.12.2016 at Rs.90,000/- in the scale of pay and disburse the consequential monetary benefits to the petitioner. The petitioner had give a representation on 09.08.2024.



WEB COPY

2. In the affidavit filed in support of the Writ Petition, it had been contended that the petitioner had been initially appointed as Secondary Grade Teacher on 22.03.1986 at Thiruvannamalai District and the service was regularised from the date of appointment. The petitioner was granted selection grade on completion of 10 years and on completion of B.Ed., Degree was granted with first incentive increment and on completion of M.A was also granted second incentive increment. The petitioner had also been promoted as Primary School Headmistress. The petitioner was further promoted as B.T. Teacher on 01.06.2017. At the time of filing the Writ Petition, the petitioner was functioning as Middle School Headmistress at Panchayat Union Middle School, Kootrampalli, Kalasapakkam Block.

3. The petitioner has a grievance that the junior, who was appointed as Secondary Grade Teacher on 22.03.1986 was drawing higher pay. In this connection, it would only be appropriate to examine the comparative pay structure as filed by the second respondent to determine as to why the junior was drawing higher scale of pay.



WEB COPY 4. The tabular column giving comparison statement of the petitioner and the junior T.Surada had been furnished by the second respondent. It is as follows:-

“

<i>S.No.</i>	<i>Particulars</i>	<i>Date</i>	<i>G.Malathi</i> <i>Salary</i>	<i>Date</i>	<i>T.Suradha</i> <i>Salary</i>
1	Date of Appointment	22.03.1986 (Forenoon)	610	22.03.1986 (forenoon)	610
2	Post and place of Appointment	Secondary Grade Teacher (Panchayat Union Primary School, Omudi, Kalasapakkam Block	610	Secondary Grade Teacher (Panchayat Union Primary School, Gengavaram, Kalasapakkam Block	610
3	Incentive Increment (B.Ed.,)	28.03.1993	1410	-	1350
4	Selection Grade	22.03.1996		22.03.1996	
5	Incentive Increment (M.A)	04.01.1997	5450	-	5150
6	Primary School Headmaster	01.07.2001	6650	01.07.2001	6350
7	Primary	22.03.2006	19,180	22.03.2006	18,350



WEB COPY

<i>S.No.</i>	<i>Particulars</i>	<i>Date</i>	<i>G.Malathi</i> <i>Salary</i>	<i>Date</i>	<i>T.Suradha</i> <i>Salary</i>
	Headmaster – Selection Grade				
8	B.T.Assistant	02.06.2010	26490	-	23,460
9	Primary Headmaster – Special Grade		84,900	22.03.2016	77,700
10	Incentive Increment (M.A B.Ed)		87,400	06.12.2016	90,000
11	Middle School Headmaster	31.05.2017	92,700	01.07.2018	98,400
12	Present status as Middle School H.M	01.07.2024	1,14,000	01.07.2024	1,17,400

”

5. A careful perusal of the same shows that the junior had been promoted as the Primary School Headmistress and granted Selection Grade and Special Grade as Primary School Headmistress after the petitioner had been granted those particular grades. Naturally when the Junior had obtained additional qualification on B.Ed and M.A, her scale of pay was higher then the petitioner and at that higher scale of pay, the junior was provided with additional incentive increment for completion of B.Ed., and



later for completion of M.A.

WEB COPY

6. It is for that reason, there has been anomaly in the pay as between the petitioner and her junior.

7. It is contended by the learned Special Government Pleader that the petitioner had sent representation on 09.08.2024. It is contended that the petitioner and the junior are not in the same cadre.

8. The issue raised herein is however no longer resintegra.

9. A learned Single Judge in ***W.P.No. 8666 of 2023 [M.Dhamodaran Vs. The District Educational Officer and others]*** by an order dated 20.08.2024 while examining the pay anomaly on practically the very same facts had passed the following order:-

“13. The issue that is involved in the present writ petition is covered by the earlier order passed in WP No.34321 of 2022 date 26.04.2024. That was also a case where the junior had obtained incentive increment and



the senior sought for stepping up of pay on par with the junior under F.R. 27(2) . A very similar defence was taken by the official respondent in that Writ Petition. The same was considered by this Court in the following paragraphs:

“8. Even though with the implementation of VII Pay Commission, the Government framed Revised Pay Rules, the basic principle relating to the stepping up of pay of a senior on par with that of the junior is contained in F.R. 27(2) which is extracted hereunder:

'F.R. 27(2): The Heads of Departments shall step up the pay of the senior on par with the pay of his junior. Such cases shall be sent to Government for ratification within one month from the date of refixation. The Government may ratify or refuse to ratify such fixation. If the Government refuses to ratify such fixation or any wrong fixation is noticed at a later date, the excess amount drawn by such fixation shall be recovered from the individual.'

9. Therefore, it can be seen that if for any reasons, while implementing the pay revision, if the junior is drawing more pay than that of the senior, then senior-s



WEB COPY



pay has to be stepped up. The Honble Supreme Court of India considered the said issue in detail. A useful reference can be drawn to the judgment of the Hon?ble Supreme Court in Union of India v. P. Jagdish and Ors., reported in AIR 1997 SC 1783. It is relevant to extract paragraph No.7 which reads as hereunder :~

'7. Admittedly, the respondents had been promoted earlier to the category of Head Clerks and some of their juniors who were continuing as senior Clerks against the identified posts carrying special pay of Rs.35/~ per month on being promoted to the post of Head Clerks later than the respondents got their pay fixed at higher level than the respondents. Under the provisions of fundamental Rules to remove the anomaly of a Government servant promoted or appointed to a higher post earlier drawing a lower rate of pay in that post than another Government servant junior to him in the lower grade promoted or appointed subsequently to the higher post, the principle of stepping up of the pay is applied. In such cases the pay of the senior officer in the higher post is required to be stepped up to a figure equal to the pay as fixed for the junior officer in that higher post. The stepping up is required to be done with effect from the date of promotion or appointment of the junior officer.



WEB COPY



On refixation of the pay of the senior officer by applying the principle of stepping up the next increment of the said officer would be drawn on completion of the requisite qualifying service with effect from the date of the refixation of pay. This principle becomes applicable when the junior officer and the senior officer belong to the same category and the post from which they have been promoted and in the promoted cadre the junior officer on being promoted later than the senior officer gets a higher pay. This being the principle of stepping up contained in the Fundamental Rules and admittedly the respondents being seniors to several other Senior Clerks and the respondents having been promoted earlier than many of their juniors who were promoted later to the post of Head Clerks, the principle of stepping up should be made applicable to the respondents with effect from the date their juniors in the erstwhile cadre of Senior Clerks get promoted to the cadre of Head Clerks and their pay was fixed at a higher slab than that of the respondent. The stepping up should be done in such a way that the anomaly in juniors getting higher salary than the senior in the promoted category of Head Clerk would be removed and the pay of the seniors like the respondents would be stepped up to a figure equal to the pay as fixed for their junior officer in the higher post of



WEB COPY



Head Clerk. In fact the Tribunal by the impugned order has directed to apply the principle of stepping up and we see no infirmity with the same direction subject to the aforesaid clarifications.

This principle of stepping up which we have upheld would prevent violation of equal pay for equal work but grant of consequential benefit of the difference of salary would not be correct for the reason that the respondents had not worked in the posts to which 35% special pay was attached in the lower cadre. But by reason of promotion the promote-juniors who worked on the said posts, infact, performed the hard duties and earned special pay. Direction to pay arrears would be deleterious to inculcation of efficiency in service.

All persons who were indolent to share higher responsibilities in lower posts, on promotion would get accelerated arrears that would be deleterious to efficiency of service. Therefore, though direction to step up the pay on notional basis is consistent with Article 39(d) of the Constitution, it would be applicable only perceptively (sic) from the date of the promotion and the fixation of the scale stepping up of scale to pay would be perspective(sic) to calculate future increments on the



scale of pay in promotional post only perspective.' 10. Thus, it can be seen that if the pay drawn by the senior is lesser on account of any special qualification that is being obtained by the junior or by virtue of any additional ability of junior, then the pay need not be stepped up. In the instant case, the petitioner is also possessing post graduate degree as well as B.Ed. qualification and has drawn two incentive increments. The junior is also possessing same post graduate degree qualification and is drawing two increments. Merely because the junior obtained post graduate degree and B.Ed. qualification at a later date and under the revised scale of pay, the junior is granted an increment amount which is higher in terms of money it results in pay anomaly. A scanned reproduction of the relevant comparison of pay which is given in page 30 is as follows: (Tabular column omitted)

11. From the above, it can be seen that only from 30.12.2010, pay anomaly came into existence. Both the pay and the revised pay are higher. It can be seen that earlier rule position takes this into account and categorically states that if the junior is given advance increment under revised pay, the quantum of which is more than the senior-s pay, it should be stepped up



WEB COPY



whereas in the year 2017, that position has not been adverted to at all. In any event, it can be seen that for the anomaly in the year 2010, 2017 Rules cannot be made applicable in support thereof to the pay anomaly de hors what is contained in the relevant revised pay rules, it is only Fundamental Rules which goes into the question. The basic rule is that when the junior and senior are travelling on the same route in the same position and are given the same promotion like the two rails of the same route, suddenly one rail cannot go in advance. If that is kept in mind in this case it cannot be said that the junior drew more pay only because of some additional or special qualification which she obtained but only because of the implementation of the revised pay rules. The very rule with regard to stepping up of pay is only to ameliorate this kind of hardship which arise with the senior. Therefore, I am of the view that the petitioner-s case deserves acceptance. ...”

14. It is trite law that when it comes to stepping up of pay, the Court must only see if the junior and the senior are travelling in the same route and in the same position and are given the same promotion, like two rails of a train track. In such a scenario, the junior cannot be allowed to advance in terms of pay than the senior. If that happens, then the pay of the senior must be



WEB COPY



necessarily stepped up on par with the junior to ameliorate the situation.

15. In the case in hand, both the petitioner as well as his junior were appointed as Secondary Grade Teachers. Admittedly, the petitioner was appointed on 10.08.1992 and whereas the junior was appointed on 02.09.1998. By the time the junior was appointed, the petitioner already got one incentive increment on 02.01.1995. Both of them were travelling in the same track and the petitioner got the second incentive on 28.05.2010 after acquiring M.A. Degree. This also happened when the petitioner was working as a Secondary Grade Teacher. In the case of the junior, his incentive increment started only on 27.02.2013 when he acquired M.A. Degree at which point of time, he was also a Secondary Grade Teacher. The petitioner got promotion as B.T.Assistant on 09.06.2010 and whereas the junior got promotion as B.T. Assistant on 27.02.2013. The second incentive increment for the junior happened in the year 2013 i.e. on 13.11.2013. At this point of time, the pay of the junior increased. Looking at the qualification of both the petitioner and his junior, it is seen that the petitioner is equally qualified like his junior and there is no ground to justify



WEB COPY



the junior getting more pay than the senior for acquiring any qualification more than the petitioner.

16. It is to deal with situations like this, F.R. 27(2) will come to the aid for stepping up of the pay. The reasons assigned by the respondents is that the junior had acquired the second incentive after his promotion as B.T.Assistant when he was drawing a higher salary and therefore, the petitioner will not be entitled to claim for stepping up of pay since he has obtained the incentive at an earlier point of time. For any reasons, while implementing the pay revision, the junior is drawing more pay than the senior, the pay of the senior has to be stepped up. The law on this issue is now too well settled.

17. In the light of the above discussion, the impugned proceedings of the first respondent in Oo.Moo.No.3881/Aa3/2021 dated 11.10.2021 is hereby quashed. There shall be a direction to the first respondent to step up the pay of the petitioner on par with the junior A.Gurumoorthy and pay the monetary benefits to the petitioner. This process shall be completed by the first respondent within a period of eight weeks from the date of receipt of a copy of this order.



WEB COPY

18. In the result, this Writ Petition is allowed with the above direction. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.”

10. The facts in the aforementioned case are similar. The directions given therein will apply to the instant case also. It is directed that the pay of the senior has to be stepped up in accordance with the pay of the junior.

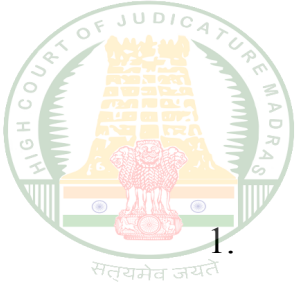
11. A Mandamus is therefore directed that the first respondent is to step up the pay of the petitioner on par with her junior T.Surada and pay the monetary benefits to the petitioner. This process shall be completed by the first respondent within a period of 8 weeks from the date of receipt of a copy of this order. The Writ Petition stands allowed. No order as to costs.

07.04.2025

vsg
Index: Yes/No
Internet: Yes/No

(2/2)

To



16

WEB COPY

1. The Director of School Education
DPI Campus
College Road, Chennai – 6.

C.V.KARTHIKEYAN, J.,

vsg

2. The District Educational Officer (Elementary)
Thiruvannamalai District,
Thiruvannamalai.
3. The Block Educational Officer-II
Kalasapakkam Block
Thiruvannamalai District.
4. The Director of Elementary Education,
DPI Campus, College Road, Nungambakkam,
Chennai – 600 006.

W.P.No. 31665 of 2024

07.04.2025