



W.A.No.3749 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 02.01.2025

CORAM

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN**

**W.A.No.3749 of 2024
and
C.M.P.No.29541 of 2024**

The District Educational Officer,
Vellore,
Vellore District.

... Appellant

-Vs-

1. M.Suguna
W/o.V.Srinivasan

2. T.Nalini,
Headmaster,
Panchayat Union Middle School,
Periyavarikkam,
Vellore District - 635 802.

... Respondents

PRAYER : Appeal filed under Clause 15 of Letters Patent, to set aside the order in W.P.No.1285 of 2022 dated 04.07.2024 and allow the above writ appeal.

For Appellant : Mr.U.M.Ravichandran



W.A.No.3749 of 2024

J U D G M E N T

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(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This intra Court appeal has been directed against the order passed by the writ Court dated 04.07.2024 in W.P.No.1285 of 2022.

2. It is a simple issue with regard to pay anomaly. Strictly speaking it is not a pay anomaly and it is only a belated consideration of sanctioning advance incentive increment for having acquired higher qualification of B.Ed and M.A by the respondents.

3. The short facts which are required to be noticed herein are that, the first respondent / writ petitioner entered into service as Secondary Grade Teacher on 07.09.1988 at Pernampet Panchayat Union, Vellore District. The second respondent entered into the same service of Secondary Grade Teacher on 21.09.1988, i.e., after two or three weeks of the writ petitioner's entry into service. Correspondingly, after completion of ten years of service, the first respondent / writ petitioner was conferred the Selection Grade on 07.09.1998 whereas, the second respondent was conferred the said benefit on 21.09.1988.



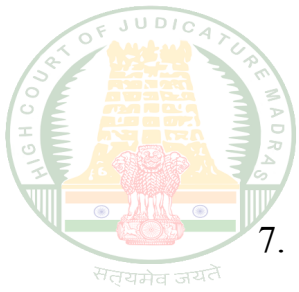
W.A.No.3749 of 2024

WEB COPY

4. Like that, after ten years, the first respondent / writ petitioner was conferred with the Special Grade on 07.09.2008, whereas the second respondent was considered and granted Special Grade on 21.09.2008.

5. Thereafter, the first respondent / writ petitioner was promoted to the post of Primary School Headmaster on 08.07.2005 whereas, the second respondent was promoted to the post of Primary School Headmaster on 05.01.2006 and the first respondent / writ petitioner subsequently was promoted to the post of B.T.Assistant on 02.09.2008 and the second respondent was promoted to the post only on 23.12.2011.

6. In the meanwhile, in order to have the qualification to become the B.T.Assistant, when the first respondent / writ petitioner was working as Secondary Grade Teacher, she acquired higher qualification of B.Ed degree in the year 1994 and M.A degree in the year 1998. Like that, the second respondent acquired B.Ed degree in the year 2010 and M.A degree in the year 2012.



W.A.No.3749 of 2024

7. When such a higher qualification is acquired, in order to recognise such higher qualification, advance incentive increments are sanctioning by the Government under the scheme which was originally invogue at that time and accordingly, when such advance incentive increment was sanctioned to the first respondent / writ petitioner for having acquired the higher qualification of B.E.d degree and M.A. degree in the year 1994 and 1998 respectively, the pay revision has been made by giving such increment.

8. Similar advance increment also had been sanctioned to the second respondent for having acquired the higher qualification of B.Ed degree and M.A degree in the year 2010 and 2012.

9. The first respondent / writ petitioner was allowed the incentive increment only in the pre-revised scale of pay, whereas the second respondent was allowed the incentive increment for acquiring the very same qualification in the revised scale of pay.

10. Since the petitioner, i.e., first respondent herein was senior to the second respondent in all respects right from entering into service up to acquiring of the higher qualification and also sanctioning of the advance



W.A.No.3749 of 2024

WEB COPY

incentive increment, there could be no chance of getting lower pay than the second respondent who is admittedly the junior in all respects right from entering into service till acquiring the higher qualification.

11. Therefore, on par with the pay, i.e., revised scale of pay, which was sanctioned to the second respondent, since the petitioner being the senior to the second respondent when sought for the equal pay by rectifying the pay anomaly, that was rejected, therefore, challenging the said order when the writ petition was filed, the same having been considered in proper perspective by the learned Judge and having taken note of the seniority of the petitioner and the fact that she travelled all along senior to the second respondent and she would be entitled to get higher pay, i.e., atleast on equal pay that was granted to the second respondent, the learned Judge has allowed the said writ petition by setting aside the order impugned before the writ Court dated 07.10.2021 in the impugned judgment.

12. However, assailing the order impugned, Mr.U.M.Ravichandran, learned counsel appearing for the appellant would submit that, originally the first respondent / writ petitioner was appointed in Pernampet Panchayat Union, whereas the second respondent was appointed in some other union. Since the



W.A.No.3749 of 2024

second respondent has been transferred to Peranmpet Panchayat Union at Vellore District and the Panchayat Union since has been treated as a Unit for considering the station seniority, based on the station seniority acquired by the second respondent, she is senior to the first respondent / petitioner and therefore, she is entitled for higher pay. This has also been stated in the order dated 07.10.2021 passed by the District Educational Officer, Vellore which is impugned before the writ Court.

13. The appellant Department has been in complete and utter confusion with regard to the sanctioning of the advance incentive increment for acquiring higher qualification as the same cannot be compared with the station seniority of the Panchayat Union.

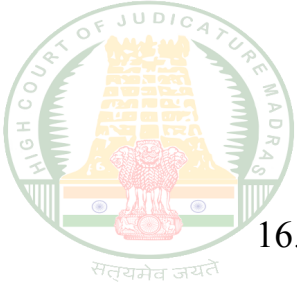
14. No doubt if a Teacher is appointed as Secondary Grade Teacher in Panchayat Union and subsequently sought for transfer on her or his own willingness to any other Panchayat Union or District where he or she joined, she has to lose the seniority whatever she acquired in the original Panchayat Union where he or she was appointed and she will be joining as a last person in the place where she sought for transfer and got transferred.



W.A.No.3749 of 2024

WEB COPY

15. That station seniority is no way connected with getting advance incentive increment for acquiring the higher qualification, therefore, such kind of station seniority cannot be put against the first respondent / writ petitioner for claiming the advance incentive increment by way of a revised scale of pay since she become eligible to claim such advance incentive increment in the year 1994 and 1998 respectively for having acquired higher qualification of B.Ed as well as M.A degree, whereas, the second respondent though had acquired the said qualification only in the year 2010 and 2012 respectively, she cannot be considered to be a senior for getting the advance incentive increment that is the reason why the alleged pay anomaly has occurred in sanctioning the actual advance incentive increment to the first respondent / writ petitioner which ought to have been rectified by the Department itself, however, since the same was rejected, even though such plea was made by the writ petitioner, through the rejection order dated 07.10.2021, when the same was questioned before the writ Court, the learned Judge has considered these aspects and allowed the said writ petition correctly and therefore, we do not find any reason to interfere with the same.



W.A.No.3749 of 2024

16. Resultantly, this Writ Appeal fails and hence, it is dismissed.

However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.) (C.S.N., J.)

02.01.2025

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

vji

To

The Headmaster,
Panchayat Union Middle School,
Periyavarikkam,
Vellore District - 635 802.



WEB COPY



W.A.No.3749 of 2024

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W.A.No.3749 of 2024
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