



W.P.(MD)No.1305 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2025

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THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD)No.1305 of 2019

A.Amutha

... Petitioner

Vs.

1.The Principal Accountant General (A & E),
Office of Account General,
361, Anna Salai,
Chennai – 18.

2.The Additional Assistant Elementary Education Officer,
Illayankudi,
Sivagangai District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the second respondent dated 15.12.2017 passed in Na.Ka.No.452/A1/2017 and quash the same and consequently direct the respondents to restore the pay received by the petitioner from 01.01.2011 as Rs.18,220/- (Basic) + Rs.5,400/- (Grade Pay) in the pay scale of Rs.15,600-39,100+5,400 and to revise her terminal benefits such as DCRG and pension, etc., based on the admitted last drawn pay received by her as Rs.21,200/- + Rs.5,400/- and to give her the balance of the same along with the recovered amount of Rs.1,72,011/- together with 18% interest per annum.



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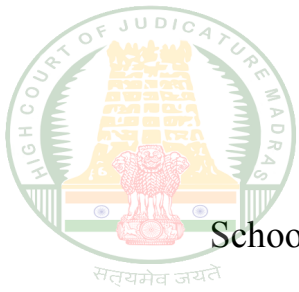
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For Petitioner : Mr.S.Arunachalam
For R1 : Mr.P.Gunasekaran
For R2 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader.

ORDER

Under assail is the order dated 15.12.2017 passed by the second respondent.

2.The case of the petitioner is that she appointed as Secondary Grade Teacher on contract basis on 05.02.1985. Subsequently, she was regularised from 01.06.1988. She was posted in Ilayankudi Panchayat Union with effect from 01.07.1988. She was promoted as Head Mistress of Primary School with effect from 22.11.2004. She was receiving scale of pay of Rs.16,880/- (Basic) + Rs.4,700/- (Grade Pay) in the pay band of Rs.9,300-Rs.34,800+Rs.4,700. She came to know that the Head Masters of Primary School were getting higher scale of pay than her. The petitioner is fully entitled to get pay anomaly rectified under Rule 4(3) of the Tamil Nadu Revised Scales of Pay Rules and the Government letter dated 08.11.1993. She was continued as Head Mistress of Primary



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School with effect from 01.01.2011. She made representation before the second respondent requesting to rectify pay anomaly. Accepting her request, the second respondent passed an order dated 14.06.2003 rectifying pay anomaly and re-fixing her scale of pay with effect from 01.01.2011 and also directing payment of arrears of pay as Rs.1,04,301/- for the period from 01.01.2011 to 31.05.2013. The second respondent calculated the terminal benefits and pension benefits payable to her based on the scale of pay, which she was given at the time of retirement. Monthly pension was fixed to her was not fixed based on the scale of pay received by her on the month of her retirement, but it was fixed based on the scale of pay, which was lower than scale of pay she received. The second respondent vide order dated 11.05.2015 informed that the first respondent raised audit objection that re-fixation of her scale of pay with effect from 01.01.2011 was wrong. Hence, this writ petition.

3.The learned counsel appearing for the petitioner would submit that in the order impugned it has been stated that the second respondent is ready to take steps to rectify the petitioner's pay anomaly as her juniors were getting higher salary than her and the second respondent has not arrived at the conclusion.



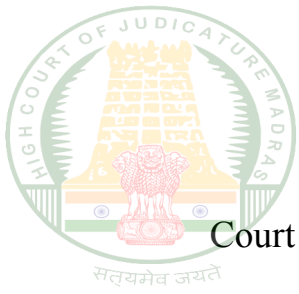
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4.Per contra, the learned Additional Public Prosecutor appearing for the second respondent would submit that there is no Rule 4(3) in the Tamil Nadu Revised Scales of Pay Rules 2009. Hence, re-fixation of pay of the petitioner under Rule 4(3) which is non-existing, on 01.08.2008 and subsequent regulation of increment etc., is prima facie wrong. Therefore, the petitioner is bound to refund the excess amount drawn by her based on the wrong fixation of pay made under Rule 4(3), already.

5.This Court has considered the submissions made on either side and perused the materials available records.

6.It is seen from conclusion paragraph of the order impugned, wherein it has been stated that the the second respondent is ready to take steps to rectify the petitioner's pay anomaly as her juniors were getting higher pay than petitioner and also seeks details regarding juniors, who are getting more pay than petitioner and ready to take steps to rectify the issue. Therefore, the order impugned would go to show that the second respondent has not arrived at the conclusion of the pay fixation given to the petitioner was wrong. Without going into merits of the matters, this



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Court is inclined to issue a direction to the second respondent to consider the case of the petitioner afresh, after submitting a detailed representation with regard to the juniors, who are getting more pay than the petitioner to rectify pay anomaly. Accordingly, the petitioner is directed to submit her detailed representation, within a period of four weeks from the date of receipt of a copy of this order and the second respondent is directed to consider the representation on merits and in accordance with law, within a period of four weeks, thereafter.

7. With the above directions, this writ petition is disposed of. No costs.

NCC : Yes / No

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Index : Yes / No

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