

W.P.(MD)No.16438 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.04.2025

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THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD)No.16438 of 2019

R.Ebenezar

... Petitioner

Vs.

- 1.The District Elementary Officer,
Kanyakumari District.
- 2.The Block Educational Officer,
Thiruvattar, Kanyakumari District.
- 3.The Head Master,
The Government Middle School Ittagaveli,
Thiruvattar, Kanyakumari 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 entire records relating to the impugned order passed by the second respondent in Na.Ka.No.318/A/2019 dated 25.06.2019 and quash the same as illegal and further directing the second respondent to re-fix the scale of pay of the petitioner by granting selection grade in Tamil Pandit with effect from 23.03.2007 based on G.O.Ms.No.210, Personal and Administrative Reforms Department, dated 11.03.1987.



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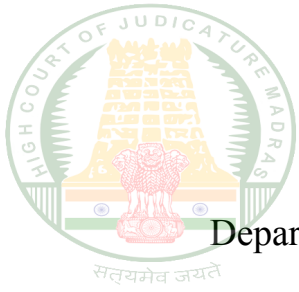
For Petitioner : Mr.R.Maheswaran

For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader.

ORDER

Under assail is the order dated 25.06.2019 passed by the Block Educational Officer, Kanyakumari District. Further, to direct the second respondent to re-fix the scale of pay of the petitioner by granting selection grade in Tamil Pandit with effect from 23.03.2007 based on G.O.Ms.No.210, Personal and Administrative Reforms Department, dated 11.03.1987.

2.The case of the petitioner is that he was appointed as Secondary Grade Teacher in the Government School on 15.10.1987. He was conferred with Selection Grade with effect from 19.12.1995 by taking into consideration of his temporary service also. Subsequently, he was conferred with Special Grade with effect from 30.12.2015. On 23.07.2007, he was promoted as Tamil Pandit. On 01.06.2008, he was promoted as Middle School Headmaster and posted in the third respondent School. As per G.O.Ms.No.240, Finance (Pay Cell)



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Department dated 22.07.2013, whereby the Government permitted the employees to exercise re-option to come over to the revised scale of pay.

As per G.O.Ms.No.210, Personal and Administrative Reforms Department, dated 11.03.1987, the services of selection grade of a lower post ought to have been taken for the promotional post provided the selection grade pay of the lower post is equal to the original pay of promotion post. His selection grade pay in secondary grade teacher is equal to that of ordinary grade pay in his promotional post of Tamil Pandit. The said promotion is his first promotion. Hence, as per G.O.Ms.No.210, his pay has to be fixed in selection grade in Tamil Pandit post with effect from the date of his promotion as Tamil Pandit dated 23.03.2007. He retired from service on attaining the age of superannuation on 31.05.2007. He sent request for re-fixation of scale of pay as per G.O.Ms.No.240. However, there is no response from the second respondent. Hence, he filed a writ petition in W.P.(MD)No.5628 of 2019 and this Court vide an order dated 11.03.2019 directed the second respondent to consider his representation. However, without affording any opportunity of hearing, the second respondent passed the order impugned without any reference of G.O.Ms.No.210. Hence, the writ petition.



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3.The learned counsel appearing for the petitioner would submit that the order impugned is vitiated by violation of principles of natural justice, since the second respondent has not offered any opportunity of hearing. The second respondent is completely misconceived in rejecting the plea of the petitioner on the ground that there is no Rule or Government Order existent completely overlooking the existence of G.O.Ms.No.210. To strengthen his contention, he has relied upon the decision of this Court in W.P.No.38666 of 2005 dated 05.09.2018.

4.Per contra, the learned Additional Government Pleader appearing for the respondents would submit that G.O.Ms.No.210 issued to safeguard the rights of persons who were promoted to the post of Elementary School Headmaster in between 01.06.1988 and 31.12.1995 alone, since they were only affected. The petitioner was only promoted as Middle School Headmaster on 31.05.2008. Hence, he is not entitled for extension of said benefits.

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



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6.It is seen from the records that the petitioner was appointed as Secondary Grade Teacher in Government School on 15.10.1987. He was granted with selection grade on 19.12.1995 and special grade on 30.12.2015. He was promoted as Tamil Pandit on 23.07.2007. On 01.06.2008 he was promoted as Middle School Headmaster.

7.It is the contention of the petitioner that thought he was promoted as Tamil Pandit on 23.07.2007, he is entitled for selection grade pay conferred in Tamil Pandit Post, taking into account of 10 years of service rendered in secondary grade teacher. The claim of the petitioner is based on G.O.Ms.No.210. The petitioner has preferred writ petition in W.P.(MD)No.5628 of 2019 seeking a direction to the second respondent to consider his representation dated 11.01.2014, in line with the G.O.Ms.No.240. This Court, vide order dated 11.03.2019, has disposed the said petition in the following terms:-

5.Considering the nature of prayer as sought for by the petitioner, without going into the merits of the petitioner's case, the second respondent is directed to consider the representation of the petitioner dated 11.01.2014 and pass appropriate orders on merits and in accordance with law and also in line with the communication of the first respondent



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dated 31.07.2017, after affording an opportunity of hearing to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.

The learned counsel appearing for the petitioner would submit that the order impugned is vitiated by violation of principles of natural justice, since the second respondent has not offered any opportunity of hearing, as directed by this Court vide order dated 11.03.2019.

8.A bare perusal of the order impugned would go to show that there is no mention about the opportunity provided to the petitioner. When this Court specifically directed the second respondent to consider the representation of the petitioner dated 11.01.2014 and pass appropriate orders on merits and in accordance with law and also in line with the communication of the first respondent dated 31.07.2017, after affording an opportunity of hearing to the petitioner. The above said direction was not complied with by the second respondent. Therefore, this Court is of the view that, without going into the merits of the case, a direction may be issued to the second respondent to pass orders on merits and in accordance with law. Accordingly, the petitioner is directed to submit his fresh representation through third respondent to the second respondent. After receipt of the fresh representation, the



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second respondent is directed to consider the and pass orders on merits and in accordance with law by providing opportunity of hearing to the petitioner, within a period of twelve weeks from the date of receipt of a copy of this order.

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

NCC : Yes / No
Index : Yes / No
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To

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M.JOTHIRAMAN, J.

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