



W.A(MD)No.882 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.08.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A(MD)No.882 of 2025
and
C.M.P(MD)No.5786 of 2025**

- 1.The State of Tamil Nadu,
By the Chief Secretary,
School Education Department,
Fort St. George,
Chennai – 9.
- 2.The Director of School Education,
College Road,
Nungambakkam,
Chennai – 6.
- 3.The Joint Director of School Education (NSS),
E.V.K.Sampath Building,
D.P.I. Campus,
College Road,
Nungambakkam,
Chennai – 6.



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4.The District Educational Officer,
Thiruppathur,
Sivagangai District,
Now at the Chief Educational Officer,
Sivagangai.

... Appellants

vs.

KN.Mayalgu

... Respondent

PRAYER : Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 05.01.2023 made in W.P(MD)No.4851 of 2020 on the file of this Court.

For Appellants : Mr.J.Ashok
Additional Government Pleader

For Respondent : Mr.N.Adithya Vijayalayan

JUDGMENT

(Judgment of the Court was delivered by S.M.SUBRAMANIAM, J.)

This intra-court appeal has been instituted to assail the writ order dated 05.01.2023 passed in W.P(MD)No.4851 of 2020.



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2.The State preferred the Writ Appeal on the ground that the stepping up of pay sought for by the respondent is unsustainable, since his junior was receiving a higher pay due to the grant of an incentive increment for acquiring a higher educational qualification. Therefore, the respondent is not entitled to seek stepping up of pay.

3.The fact remains that the respondent was holding the post of Physical Educational Teacher and retired from service on 30.04.2011 as Headmaster. An application was filed by the respondent seeking stepping up of pay on par with his junior Mr.R.Sukumar with effect from 01.04.2006, the date on which the 6th Pay Commission recommendations were implemented.

4.The learned Additional Government Pleader apperaing for the appellants submitted that the application filed in the year 2013, after a lapse of about 7 years from the date of implementation of the 6th Pay Commission, is not entertainable. That apart, the respondent was allowed to retire on



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30.04.2011 and after receiving pension and other pensionary benefits, the application seeking stepping up of pay was filed only in the year 2013.

5.The learned counsel appearing for the respondent would oppose the appeal by contending that the junior/Mr.R.Sukumar was receiving a lesser pay than that of the respondent from 01.01.2006 onwards. Thereafter, the pay of the junior was enhanced to Rs.29,190/-, while the respondent's pay remained Rs.28,050/-. In such circumstances, the application seeking stepping up of pay ought to have been considered by the authorities. Since the same was not considered, the writ Court considered and allowed the Writ Petition and hence, the Writ Appeal is liable to be rejected.

6.Heard the learned Additional Government Pleader appearing for the appellants and the learned counsel appearing for the respondent.



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7.The fact remains that the respondent was appointed as a Physical Educational Teacher and retired as a Headmaster on 30.04.2011. His last drawn pay was fixed and pensionary benefits had been settled. He has been receiving a pension. After a lapse of two years from the date of retirement and seven years from the date of implementation of the 6th Pay commission with effect from 01.01.2006, an application seeking stepping up of pay was filed before the authorities. The authorities rejected the same which resulted in filing of the Writ Petition.

8.A perusal of the comparative statement filed by the appellants in the counter-affidavit filed in the Writ Petition shows that Mr.R.Sukumar is the junior to the respondent. The pay of the respondent/writ petitioner and Mr.R.Sukumar was fixed as on 01.01.2006 is as follows:

	Petitioner	R.Sukumar
Pay fixed as on 01.01.2006	27230	26720
Date of annual increment	1.10.2006	01.04.2006
Pay after increment (3%)	28050	27530
31.10.2006 incentive increment for M.Phil 3% + 3%	..	29190



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9.The difference in pay has not been caused due to the pay fixation in the revised scale of pay, but it was only due to the grant of an incentive increment for the higher educational qualification acquired by the said Mr.R.Sukumar.

10.Incentive increment is not part of service condition. It is also not part of the regular pay fixation. It is a concession extended for the teachers, who acquire higher educational qualifications, in accordance with the Government Order. Incentive increment is a special scheme and therefore, a teacher who receives such an incentive increment on account of acquiring a higher qualification cannot be considered for claiming stepping up of pay by the senior. Since the pay fixation was in accordance with Rules and there was no parity between the respondent/writ petitioner and his junior Mr.R.Sukumar, the writ order is not in consonance with the principles to be considered for stepping up of pay.



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11. Accordingly, the writ order dated 05.01.2023 passed in W.P(MD)No.4851 of 2020 is set aside and the Writ Appeal is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[S.M.S.,J.] & [G.A.M.,J.]
14.08.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
ps



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S.M.SUBRAMANIAM, J.
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ORDER MADE IN
W.A(MD)No.882 of 2025

DATED : 14.08.2025