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W.P.Nos.11273 of 2020 & 22195 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2026

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.Nos.11273 of 2020 & 22195 of 2022

S.Sridevi Priya

... Petitioner in both petitions

vs

Chennai East Education Department,

Chennai – 600 013.

... Respondents in both petitions

Prayer in W.P.,No.11273 of 2020: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the third respondent in Na.Ka.No.1167/A5/2020 dated .06.2020, signed on 27.07.2020 and to quash the same consequently directing the respondents to restore the salary of the petitioner



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in the post of Middle School Headmaster in Level – 17 pay scale with effect from 01.01.2020, as per pay protection ordered and to sanction the increment in Level – 17 for the post of Middle School Headmaster with effect from 01.01.2020 and to sanction selection grade pay for the post of Middle School Headmaster from 02.01.2019 with consequential and attendant benefits and to pass orders.

Prayer in W.P.No.22195 of 2020: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the third respondent in Na.Ka.No.0980/A4/2022 dated 07.07.2022 and to quash the same and consequently directing the respondents to pay full salary to the petitioner for the first period of suspension from 23.08.2013 till date of joining on 14.11.2013 and second period of suspension from 24.01.2014 to 08.06.2014 and to treat the period as duty for all purpose with consequential and attendant benefits and to pass orders.

For Petitioner
in W.P.No.11273/2020 : Mr.S.Somasundaram

For Petitioner
in W.P.No.22195/2022 : Mr.P.Ganesan

For Respondents
in both petitions : Ms.P.Rajarejeswari

COMMON ORDER



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Since the petitioner in both the writ petitions is one and the same, both the writ petitions were heard together and being disposed of by this common order.

2. Heard Mr.S.Somasundaram for Mr.Neduchezhiyan, learned counsel for the petitioner in W.P.No.11273 of 2020 and Mr.P.Ganesan, learned counsel for the petitioner in W.P.No.22195 of 2022 and the learned Government Advocate appearing on behalf of the respondents and perused the records.

3. The petitioner by the writ petition *vide* W.P.No.11273 of 2020 has assailed the action of the third respondent in issuing proceedings dated Nil.06.2020 signed on 27.07.2020 whereby her request to restore the salary in the post of Middle School Headmistress in level – 17 pay scale with effect from 01.01.2020; to sanction increment in level – 17 with effect from 01.01.2020; and to sanction the selection grade pay for the post of Middle School Headmistress from 02.01.2019 with consequential and attendant benefits had been rejected.

4. The petitioner by the writ petition in W.P.No.22195 of 2022 has assailed the action of the third respondent in issuing order dated 07.07.2022 whereby her request to regularize the period of suspension during the period from 23.08.2013 to



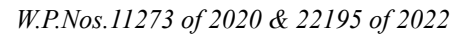
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22.10.2013, from 23.10.2013 to 13.11.2013 and from 24.01.2014 to 23.03.2014

was rejected and the Block Educational Officer was directed to obtain consent from the petitioner to regularize the period as eligible leave.

5. Briefly put the case of the petitioner is that she was working as the Headmistress of R.J.R.Middle School, Korukkupet, Chennai from 02.01.2009; that she was placed under suspension by the Secretary of the School with effect from 23.08.2013 without any valid reason, and continued the said suspension beyond the period of 60 days without obtaining necessary permission from the District Educational Officer; that in the absence of permission being obtained, the suspension beyond the period of 60 days would not be valid; and that the suspension is deemed to have been revoked as per Section 22 (3) (b) of Tamil Nadu Recognized Private School (Regulations) Act, 1973.

6. It is the further case of the petitioner that while the Secretary of the School where she was working as Headmistress was acting contrary to the provisions of Act as applicable to the School being the Government Aided School and also contrary to the interim orders of this Court in W.P.No.29829 of 2013, she had initiated contempt proceedings.



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8. Petitioner further contended that consequent to her joining the post of B.T.Assistant (Science), her salary has been fixed by granting pay protection in level – 17, Cell- 19 in pay scale of Rs.36700-116200 with effect from 01.06.2019; that she become entitled for annual increment on 01.01.2020 in the pay scale applicable to the post of Middle School Headmistress; that the third respondent however, without taking note of the pay protection granted to her while transferring her services from RJR Middle School to North Madras Social Welfare Services Middle School, issued order dated 16.09.2019 stating that she would be entitled for annual increment with effect from 01.01.2020 in the pay scale applicable to the B.T.Assistant in level 16, thereby, resulting in reduction of her salary contrary to the pay protection offered to her at the time of transfer from the School where she was working earlier as Headmistress; and that the action of the third respondent *vide* proceedings dated 16.09.2019 in revising the pay scale with fixation of pay in the post of B.T.Assistant is arbitrary and illegal; and that she is entitled for sanction of increment in level -17 as applicable to the post of Middle School Headmistress, as per the proceedings of the third respondent issued in May, 2019 granting pay protection and service protection.



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9. It is further case of the petitioner that aggrieved by the aforesaid action of the third respondent in revising her pay scale and fixation of her pay in the post of B.T.Assistant, she had approached this Court by filing W.P.No.32658 of 2019; and that this Court by order dated 21.11.2019 directed the respondents to consider the representation of the petitioner dated 03.06.2019 on merits and in accordance with law; and that the third respondent thereafter issued the impugned proceedings dated Nil.06.2020 signed on 27.07.2020 claiming that the salary of the petitioner fixed as level-16 as per G.O.Ms.No.103, dated 10.11.2017; that the petitioner does not suffer any loss of pay; and that the respondents also did not consider that it was on account of the acts of the school management that she was obstructed from joining service in the year 2014 and 2015, and therefore, the 212 days of her suspension period is required to be regularized; and that due to non-regularization of 212 days, the petitioner would not be treated as having completed 10 years in the post of Middle School Headmistress becoming eligible for selection grade as on 02.01.2019; and thus, the impugned order passed by the respondents, without taking the aforesaid aspect into account, is illegal and arbitrary in law.

10. Similarly, the case of the petitioner in the second writ petition i.e., W.P.No.22195 of 2022 is that since, the petitioner has been placed under



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suspension by the school management of RJR middle school beyond the period of 60 days without obtaining necessary approval from District Educational Officer, the suspension period is to be treated as a period of duty and the petitioner is entitled to full salary; and that the respondent however, failed to consider the said aspect while passing the impugned order dated 07.07.2022.

11. Counter affidavit on behalf of the third respondent is filed in W.P.No.11273 of 2020 and the counter affidavit is filed by the fourth respondent in W.P.No.22195 of 2022 denying and disputing the claim of the petitioner.

12. The respondents by the counter affidavit mainly contended that on the occurrence of the fire accident in the RJR Middle School where the petitioner was working as Headmistress, the first and second respondents considering the safety of the students, decided to close the School and that in order to protect the teachers working in the said School, offered them employment in the nearby School wherein the vacancies existed; and that as there was no vacancy in the post of Headmistress in the middle School, the petitioner was appointed as B.T.Assistant (Science) by downgrading her level from 17 to 16 i.e., Graduate Teacher Post with pay protection, allowing the petitioner to draw the salary as she was drawing as



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Headmistress of Middle School; and that the petitioner had accepted the aforesaid proceedings dated 27.05.2019 without any demour or protest.

13. The respondents further contended that the petitioner after accepting the proceedings, whereby her post was downgraded from level 17 to 16, cannot claim the benefit i.e., increment as applicable to the said level and it is for the said reason, the respondents, by impugned proceedings, have rejected her claim for being granted the increment at level 17 and granted the increment as applicable to the level 16 i.e., graduate teacher post.

14. The respondents further contended that the claim of the petitioner for being eligible to be granted selection grade was not considered as the petitioner was under suspension for a period of 212 days which suspension period needs to be excluded while considering the completion of the 10 year period as the said suspension period was not regularized.

15. The respondents also contended that since, the period of suspension during the year 2013-2014 was not regularized, the petitioner would not be entitled



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to claim full salary for the said period or seek protection to treat the said period as on duty for all purposes.

16. Contending as above, the respondents seek for dismissal of the writ petitions.

17. I have taken note of the respective contentions as urged.

18. At the outset, it is to be noted that the petitioner, while working as Headmistress of RJR Middle School, was placed under suspension by the Management of the School with effect from 23.08.2013 *vide* proceedings of the School Secretary dated 22.08.2013. The petitioner, aggrieved by the aforesaid order of suspension, had approached this Court by filing writ petition *vide* W.P.No.29829 of 2013 wherein this Court had initially granted interim orders. However, the petitioner withdrew the said writ petition on 06.10.2017 i.e., even before the occurrence of fire accident in the said School, which had occurred on 08.11.2018. Thus, on the date when the petitioner chose to withdraw the writ petition filed by her assailing the action of the Secretary of the School in placing her under suspension and continuing the said suspension beyond the period of 60



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days without obtaining any approval of the District Educational Officer, is to be construed as the petitioner giving up her challenge to the said suspension order.

19. The consequence of the withdrawal of the writ petition would mean that there is no challenge to the suspension of the petitioner from 23.08.2013 or continuing the suspension beyond the period of 60 days. Further, the petitioner having approached this Court against her subsequent suspension in the year 2014 *vide* W.P.No.3316 of 2014 and also having withdrawn the said writ petition along with the writ petition filed by her earlier *vide* W.P.No.29829 of 2013 on 06.10.2017, the petitioner now cannot claim that her aforesaid suspension period is to be either treated as a period of duty for all purposes or that she is entitled to be paid full salary for the said period.

20. As noted herein above, since, the suspension of the petitioner during the period from 23.08.2013 till 14.11.2013 and further suspension from 24.01.2014 to 08.06.2014 having attained the finality on account of withdrawal of the two writ petitions by the petitioner unconditionally, the said periods of suspension would automatically stand excluded while computing the 10 year period of service in order to make the petitioner eligible for being granted selection grade. Thus, the



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challenge by the petitioner to the impugned proceedings rejecting her claim for being granted selection grade is devoid of merits.

21. Insofar as the claim of the petitioner of she being entitled to be granted increment as applicable to level - 17 is concerned, the petitioner having accepted the proceedings dated 27.05.2019 whereby her position has been downgraded to that of a graduate teacher post, in level – 16, cannot continue to claim increment as applicable to level-17 applicable to the post of Middle School Headmistress which level she had relinquished voluntarily by accepting the proceedings dated 27.05.2019 and joining as B.T.Assistant (Science).

22. Though it is contended by the petitioner of having been granted pay protection, the pay protection granted is at the time of joining as B.T.Assistant (Science) from Middle School Headmistress so as to enhance the salary being drawn by the petitioner does not get reduced, but is not in relation increments that would become due and payable.

23. If the contention of the petitioner is accepted, the proceedings dated 27.05.2019 by which the position of the petitioner was downgraded from level - 17



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to level-16 and being appointed as B.T.Assistant (Science) would be rendered redundant.

24. Thus, considered from any angle, the present writ petitions as filed assailing the impugned proceedings dated .06.2020, signed on 27.07.2020 and 07.07.2022, are devoid of merits and accordingly, dismissed. Consequently, connected Miscellaneous Petitions are closed. No order as to costs.

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Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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Chennai East Education District,



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T. VINOD KUMAR, J.

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