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WA No. 1596 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-06-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WA No. 1596 of 2026

and

CMP No. 14757 of 2026

1. The District Elementary Educational Officer
Vellore,
Vellore District.
2. The Assistant Elementary Educational Officer
Kandhili,
Vellore District.

..Appellant(s)

Vs

G Vasantha
W/o.Sachithanandham,
Mankanoor Village,
Puthakaram Post,
Pudhupettai Via,
Natrampalli Taluk 635 651,
Vellore District

..Respondent(s)

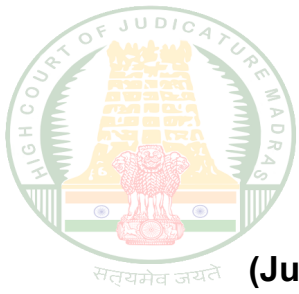
WA No. 1596 of 2026

Writ Appeal filed under Clause 15 of Letters Patent to set aside the Order dated 26.02.2024 made in WP.No. 22621 of 2017 and allow the above writ appeal

WA No. 1596 of 2026

For Appellant(s): Dr.R.Gouri,
Government Counsel

For Respondent(s): M/s. G.Mutharasu



Judgment

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

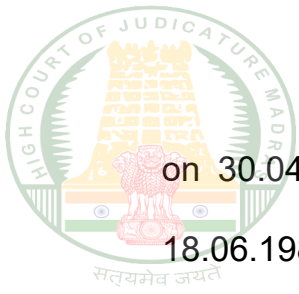
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The present intra Court Appeal has been instituted by the District Elementary Educational Officer along with the Assistant Elementary Educational Officer to assail the writ order dated 26.02.2024 in W.P.No.22621 of 2017.

2. Learned Government Counsel would mainly contend that stepping up of pay will be granted only if the service particulars are similar between the senior and junior and in the event of any discrepancy on account of the rules applicable or on facts, stepping up of pay cannot be granted.

3. In the present case, the fact remains that the respondent Smt.G.Vasanth/writ petitioner was initially appointed as Secondary Grade Teacher in Panchayat Union Middle School, Nattarampalli Block on 16.04.1986. Later, she was transferred to Kandhili Union on 15.07.1986 and posted as Secondary Grade Teacher in Panchayat Union Primary School. Subsequently, she was promoted as Primary School Headmaster on 24.03.2003.

4. Mr.S.Devaraj, with whom, the respondent made a comparison and claiming to be her junior was initially appointed as Secondary Grade Teacher

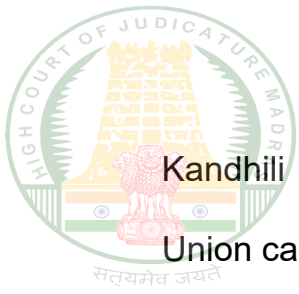


on 30.04.1986 in Anaicut Union. He was transferred to Kandhili Union on 18.06.1987. He was posted as Secondary Grade Teacher in Panchayat Union Middle School. He was promoted to the post of Primary School Headmaster on 24.03.2003 on the very same date, on which, the respondent herein was promoted to the post of Primary School Headmaster.

5. The respondent would further contend that she was promoted as B.T. Assistant on 06.11.2007 and her junior was promoted to the same post on 02.06.2008, later to her promotion. She was promoted to the post of Middle School Headmaster on 02.06.2008 and her junior is promoted to the same post on 27.08.2008. Under these circumstances, the said Devaraj is getting higher pay and therefore, the respondent made an application for stepping up of her pay.

6. This Court has considered the rival submissions made between the parties to the lis.

7. No doubt, the facts would show that the promotion was granted later to Mr.Devaraj and the respondent was promoted earlier. However, the Government rejected the claim on the ground that the respondent/writ petitioner was initially appointed as Nattarampalli Union and thereafter, transferred to Kandhili Union and Junior Devaraj was appointed in Anaicut Union and later transferred to Kandhili Union and continued to service in



Kandhili Union. Therefore, the service of a person who are from different Union cannot be treated as one and the same for all purposes.

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8. The claim of the respondent was rejected on two reasons. Firstly, the respondent was initially appointed in Nattrampalli Union and transferred to Kandhili Union. Her junior Devaraj was appointed in Anaicut Union and thereafter, transferred to Kandhili Union. Hence, the service of persons who are from different Union cannot be treated as one and the same for all purposes as contemplated under Rule 9 of the Special Rules of Tamil Nadu Elementary Educational Subordinate Service Rules.

9. The second reason for rejecting the request of the respondent is that the Government introduced Tamil Nadu Revised Scale of Pay Rule, 2009, in order to rectify the pay anomaly between the junior getting more pay than senior, even after implementation of the rules in certain cases where junior got promotion after moving to selection grade/ special grade and senior got promotion before moving to selection grade/ special grade i.e., before completion of 10 years of service/ 20 years of service in the lower post, the Government, after due consideration, in order to rectify the pay anomaly issued G.O.25 Personnel and Administrative Reforms Department dated 23.03.2015 and the relevant portion of the Government Order is extracted hereunder.

“5. The Government direct that in cases where



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Government servants who have been appointed/ promoted to higher posts without moving to selection grade/ special grade in the lower post and there by happen to draw less pay than their junior who are appointed/ promoted to the higher posts after moving to the selection grade/ special grade of the lower post in the revised scales of pay, the pay of such seniors should be fixed in the higher post equal to the pay of the junior in the higher post with effect from the date of drawal of higher pay by

The junior in the Higher Post subject to fulfilment of the following conditions:

I. Both the junior and Senior Officers should belong to the same cadre and the post in which they have been promoted or appointed should be identical in the same cadre.

II. The scale pay of the lower and higher posts in which they are entitled to draw pay should be identical.

III. The pay anomaly should be arising directly as a result of fixation of pay in the promotional post after fixation of pay in the selection grade/ special grade of the lower post. For example, if even in the lower post the junior officer draws from time to time, a higher rate of pay than the senior by virtue of grant of advance increment, the provisions contained in this order should not be invoked to step up the pay of the senior officer and

IV. The orders refixing the pay of the senior officers in accordance with the provisions of this order should be issued under Fundamental Rule 27. The next increment of the senior officer will be drawn on



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completion of the requisite qualifying service with effect from the date of refixation of the pay.

6. This order shall take effect from 01.01.2006.”

10. Clause 5(iii) in the above Government Order made it clear that even in the lower post, the junior officer draws pay from time to time, a higher rate of pay than the senior by virtue of grant of advance increment, the provisions contained in this order should not be invoked to step up the pay of the senior officer and the same should only be invoked in case, if the pay anomaly arose only in case where the Junior got promotion, after moving to selection grade/special grade and the senior got promotion before moving to selection grade/ special grade . The application of the above Government Order would result that the pay anomaly between the respondent and the said Mr.Devaraj arose only due advance increment paid for acquiring additional qualification of M.A. in the post of Middle School Headmaster on 29.05.2010, which fact could be explicated from the service records of S.Devaraj. Thus, it is clear that the respondent herein is not entitled to any stepping up of pay on par with the said S.Devaraj as per Clause 5(iii) of G.O.Ms.No.25, Personnel and Administrative Reforms Department dated 23.03.2015. The scope of the pay rules, stepping up of the pay as well as the conditions stipulated in the Government Orders are not considered by the writ Court.

11. The Hon'ble Supreme Court of India in the case reported in 1995 *Sup (4) SCC 706* held that if by applying wrong test, if candidates who are



ineligible are found to be eligible and by judgment it was upheld is not a ground to extend the same to ineligible candidate which would be squarely applicable to the case on hand.

12. In view of the above factum, this Court is of the considered view that the writ order deserves to be interfered with. Accordingly, the Writ order dated 26.02.2024 is set aside. The Writ Appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.,J.) (N.S.,J.)
19-06-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

VSI

To
G Vasantha
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