

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.02.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.4490 of 2021

and

W.M.P.No.5118 of 2021

(Heard through VC)

T.V.Nagarajan

.. Petitioner

-vs-

1.The Secretary,

School Education Department,
Government of Tamilnadu,
Secretariat, Chennai - 600 009.

2.The Director of Primary Education,
Directorate of School Education,
D.P. I. Campus, College Road,
Chennai - 600 006.

3.The District Elementary Education Officer,
Kallakurichi,
Kallakurichi District.

4.The Assistant Elementary Education Officer,
Thyagathururgam - 606 206.
Kallakurichi District.

5.The Chief Accountant - General,
Accounts and Settlement (TamilNadu),
No.361, Annasalai,
Chennai - 600 018.

.. Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the Respondents to consider the representation dated 28.11.2020 sent by the petitioner and pass orders on the same within a time frame has to be stipulated by this Honourable Court for the Respondent 2 and 3 to duly rectify all the defects pointed out by the 1st respondent in his letter dated 27.04.2010 and to resubmit the proposal to the 1st respondent, with the regard to the rectification of the pay anomaly of the petitioner and to pay him all the arrears with concomitant benefits.

For Petitioner : Mr.W.M.Abdul Majeed

For Respondents 1 to 4 : Mr.P.Raja
Government Advocate

For Respondent-5

: Mr.V.Vijayshankar

O R D E R

The petitioner has come up with this writ petition seeking a direction to the respondents to consider his representation dated 28.11.2020 and pass orders on the same and also a direction to the second and third respondents to rectify all the defects pointed out by the first respondent in its letter dated 27.04.2010 and to resubmit the proposal to the first respondent, with regard to the rectification of the pay anomaly of the petitioner and to pay him all the arrears with concomitant benefits.

2. Mr.P.Raja, learned Government Advocate takes notice on behalf of the respondent Nos.1 to 4. Mr.V.Vijayshankar, learned standing counsel takes notice on behalf of the respondent No.5.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. The case of the petitioner is that he retired from service on 30.09.2005, as a Head Master. While serving as Head Master, pay anomaly has occurred, as his junior was drawing more pay than the petitioner. Hence, he made a representation to the District Educational Officer, Villupuram/third respondent with regard to the pay anomaly. The third respondent has ordered for rectification of pay anomaly and also for the arrears from the year 1996. Thereafter, on 30.10.2006, the fourth respondent passed consequential order and the same was recorded in the service register of the petitioner and a proposal was sent to the fifth respondent. The fifth respondent has informed that only the Government can pass orders for rectification of pay anomaly. Hence, again the third respondent has sent a proposal to the second respondent, who in turn, has forwarded the same to the first respondent. The first respondent had returned the proposal stating that the Service Register entry needs to be cancelled and the proposal to be re-submitted thereafter. But till date, the proposal was not re-submitted. In this regard, the petitioner has made a representation on 28.11.2020 to the respondents. But, till date, there has been no response from the respondents. Hence, this writ petition.

5. Considering the facts and circumstances of this case, if the Petitioner's representation is already pending with the authorities concerned and, not disposed of earlier, this Court directs the respondent concerned to consider the representation of the petitioner dated 28.11.2020, if he is otherwise eligible and pass appropriate orders, in accordance with law, after affording an opportunity of hearing to the petitioner, as

expeditiously as possible, preferably within a period of 120 days from the date of receipt of a copy of this order. The petitioner shall appear for personal hearing on the specified date fixed by the respondents either physically or virtually or he shall send a written submission through registered or speed post, which can be treated as a personal hearing. In case the petitioner fails either to appear in-person or submit his written submission, there is no bar for the respondents to pass orders on the representation based on the available documents before him and the petitioner, at a later point of time, cannot take a plea that opportunity of hearing was not afforded.

6. The petitioner shall furnish his phone number, email ID, if any, etc., along with a copy of the representation dated 28.11.2020 and this order, to the respondent concerned forthwith. The respondent concerned is directed to communicate the decision taken on the application, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the parties to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the parties, they will have to face the civil imprisonment in case of contempt proceedings and, if they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of attempt of delivery, so that the parties, at a later point of time, will not take a plea that he is not aware of the order.

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

Sd/-

Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

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To

1.The Secretary,
School Education Department,
Government of Tamilnadu,
Secretariat, Chennai - 600 009.

2.The Director of Primary Education,
Directorate of School Education,
D.P. I. Campus, College Road,
Chennai - 600 006.

3.The District Elementary Education Officer,
Kallakurichi,
Kallakurichi District.

4.The Assistant Elementary Education Officer,
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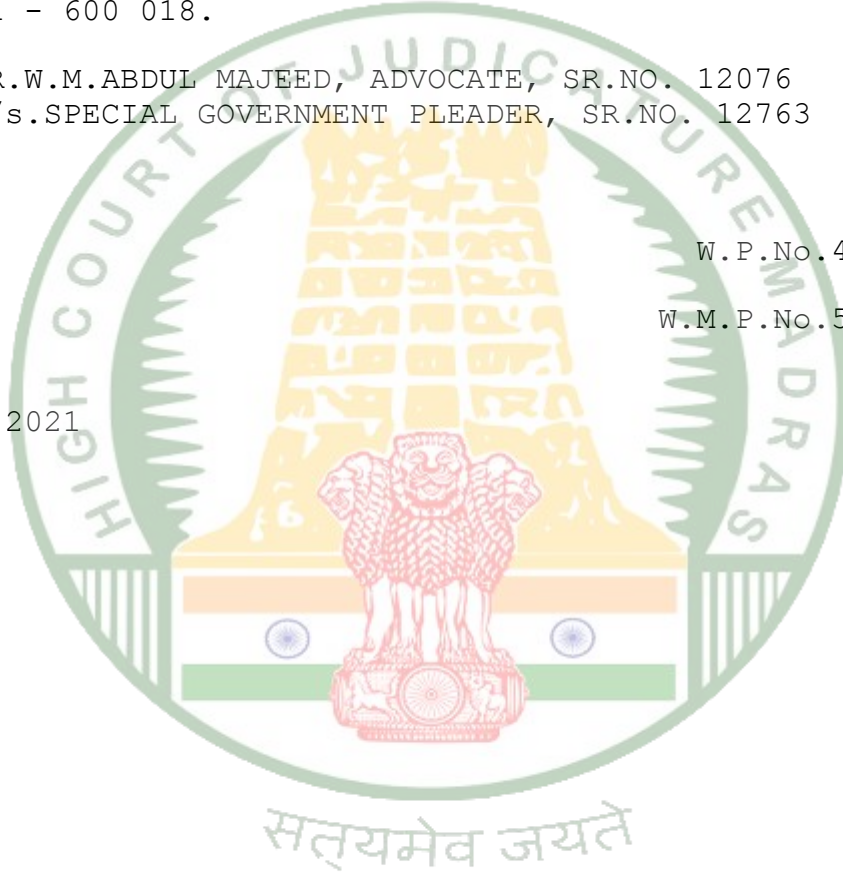
5.The Chief Accountant - General,
Accounts and Settlement (TamilNadu),
No.361, Annasalai,
Chennai - 600 018.

+1CC TO MR.W.M.ABDUL MAJEED, ADVOCATE, SR.NO. 12076

+1CC TO M/s.SPECIAL GOVERNMENT PLEADER, SR.NO. 12763

W.P.No.4490 of 2021
and
W.M.P.No.5118 of 2021

SSV(CO)
KKN 22.04.2021



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