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W.A.No.2857 of 2019 etc. batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2023

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR  
AND  
THE HON'BLE Mr. JUSTICE K.KUMARESH BABU

**W.A.No.2857 of 2019,**

W.A.Nos.1038 of 2017, 944 of 2017, 1663 of 2018, 1766 of 2018,  
671 of 2018, 688 of 2018, 704 of 2018, 3738 of 2019,  
3166 of 2019 and 957 of 2019 **(11 WAs)**

and

C.M.P.Nos.6785/2018, 13385 and 14200 of 2018,  
23724/2019, 13118/2017, 14729/2017,  
18360/2019, 20001/2019, 18358/2019 and 7168/2019

and

W.P.Nos.25680 of 2011, 8962 and 8963 of 2011,  
21852 of 2014, 15496 of 2014, 2112 of 2015, 22175, 22176,  
22177, 22178, 22179, 22180, 22181, 22182 of 2015,  
24456 of 2015, 12990 of 2016 and 22176 of 2021 **(17 WPs)**

and

C.M.P.Nos.6454 and 6578 of 2018

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**W.A.No.2857 of 2019:**

- 1.The Government of Tamil Nadu  
Rep. By its Secretary to Government,  
School Education Department,  
Fort St. George,  
Chennai – 600 009.
- 2.The Director of Elementary Education,  
College Road,  
Chennai – 600 006.



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3.The District Elementary Educational Officer,  
Coimbatore District,  
Coimbatore.

4.The Assistant Elementary Educational Officer,  
Annur Panchayat Union,  
Coimbatore.

... Appellants

Vs.

1.V.N.Kalisamy

2.K.K.Shanmugam

3.P.Shanmugasundaram

4.C.Palanisamy

5.R.Chinnasamy

6.K.Tamilselvi

7.Ganapathiappan

... Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, praying  
to set aside the order dated 23.09.2014 in W.P.No.24214 of 2014.

In all WAs

For Appellants : Mr.K.Suresh  
Government Advocate

For Respondents : M/s.R.Saseetharan



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## **COMMON JUDGMENT**

(Judgment of the Court was delivered by R.SURESH KUMAR, J.)

Since the issue raised in these appeals as well as the other connected writ petitions is one and the same, with the consent of the learned counsel appearing for both sides, these writ appeals as well as the writ petitions were heard together and are disposed of by this common order.

2. The respondents in the writ appeals and the respective petitioners in the writ petitions were the erstwhile teachers who were working either as Secondary Grade Teacher or as Primary School Headmaster before 01.06.1988.

3. Insofar as the benefit that has to be conferred on them i.e. Selection Grade and Special Grade after completion of 10 years and 20 years of service respectively, such kind of benefit had been conferred on them while they were working as Secondary Grade Teacher. Thereafter suppose a teacher has got promoted as a Primary School Headmaster



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whether such Primary School Headmaster would be entitled to get the financial benefit of conferring the Selection Grade as the case may be or his service would be calculated only from the date of his promotion as Primary School Headmaster alone for the purpose of conferring such status was the question.

4. At that time the Government had come forward to give such benefit for those who were working as Primary School Headmasters as on 01.06.1988, that means, those who were working as Primary School Headmaster on 01.06.1988 would be considered for conferment of Selection Grade and Special Grade by taking into account of the total service they rendered including the service in Secondary Grade Teacher post and accordingly such benefit have to be conferred on them.

5. However, many number of such teachers who could not earn the promotion as Primary School Headmaster before the said cut-off date of 01.06.1988 were able to earn the promotion only after the said cut-off date because of the years of service as well as the want of vacancy. After they earned such promotion after 01.06.1988 when they claimed for such benefit of Special Grade and Selection Grade by taking into account of



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the total service rendered by them including the Secondary Grade Assistant post that was denied by quoting the cut-off date i.e. 01.06.1988.

6. Therefore, this issue was brought to the notice of the Government and the Government after having considered all these aspects including the judgment rendered by this Court, decided to issue a Government Order called G.O.(Ms).No.207, School Education (G2) Department dated 30.09.2008. *Inter alia* in the said G.O., the Government ordered as follows:

“7.இதனை அரசு நன்கு ஆய்வு செய்து உயர்நீதி மன்ற தீர்ப்பின் அடிப்படையில் மேலே பத்தி 6 ல் உள்ள தொடக்கக் கல்வி இயக்குநரின் கருத்துருவினை ஏற்று, அதன்படி அரசாணை (நிலை) எண்.38 பள்ளிக்கல்வி நாள். 05.03.2001ல் உள்ள ஆணைகளை கணக்கில் கொள்ளாமல் அரசாணை (நிலை) எண். 185, பள்ளிக் கல்வி நாள் 16.12.2002 மற்றும் அரசாணை (நிலை) எண். 160 பள்ளிக்கல்வி நாள் 23.08.2005 ஆகிய அரசாணைகளை பயன்படுத்தி 01.06.88க்கு பின்பு தொடக்கப் பள்ளி தலைமை ஆசிரியர்களாக பதவி உயர்வு பெற்றவர்களுக்கு தேர்வு நிலை/சிறப்புநிலை வழங்கி ஊதிய நிர்ணயம் செய்து திருத்திய ஒய்வூதியப் பலன்கள் பெற அனுமதித்து அரசு ஆணை வெளியிடுகிறது.

8. இவ்வாணை நிதித்துறையின் அ.சா.எண்227/DS(RC)/2008, நாள் 29.09.2008ல் பெற்ற இசைவுடன் வெளியிடப்படுகிறது.

(ஆளுநரின் ஆணைப்படி)

ம.குற்றாலிங்கம்,  
அரசு முதன்மைச் செயலாளர்”



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7. By virtue of this G.O.(Ms).No.207 those who become the Primary School Headmaster even after 01.06.1988 would also be eligible and entitled to claim the financial benefit of Selection Grade and Special Grade by taking into account the entire service they rendered.

8. Pursuant to this G.O. when the Department at the District level prepared the list of such beneficiaries for conferring such financial status, the Director of School Education issued a proceedings in Na.Ka.No. 2200/C2/2010 dated 23.07.2010. In the said proceedings, the Director has interpreted the import of G.O.(Ms).No.207 to state that the benefit arising out of G.O.(Ms).No.207 would be conferred only on those who were working and got promoted on 01.06.1988 alone and not those who got promoted subsequent to 01.06.1988.

9. Therefore if at all any such conferment of the benefit made to those who got the promotion as Primary School Headmaster after 01.06.1988, such is the wrong conferment, therefore that should be recovered. Also it was stated in the said proceedings dated 23.07.2010 that the G.O.(Ms).No.207 restricts only the pension and not the arrears of



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salary for such a conferment of the Selection Grade or Special Grade to those who attained the promotion as Elementary School Headmaster after 01.06.1988.

10. The 23.07.2010 proceedings further stated that, the District level officers who were responsible for wrongful conferment of such financial status for Selection Grade and Special Grade for those Primary School Headmaster who acquired the promotion after 01.06.1988 have to be dealt with departmentally as against whom departmental proceedings also would be initiated.

11. The said proceedings dated 23.07.2010 issued by the Director of School Education was under challenge in many writ petitions before this Court. A batch of writ petitions on this issue came to be disposed by a common order dated 27.04.2015 in W.P.No.12564 of 2015 as well as W.P.Nos.12563 and 12565 of 2015.

12. Before such an order was passed, already yet another writ petition at the earliest point of time was disposed by this Court in W.P.No.25001 of 2012. Following the said judgment made in



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W.P.No.25001 of 2012 in the matter of ***S.Chandrasekaran and others***

***Vs. The Government of Tamil Nadu represented by Secretary to Government, School Education Department and others*** reported in ***2015 (5) Law Weekly 140***, the said order dated 27.04.2015 was passed.

13. Following the same, the said common order was passed on 27.04.2015 allowing the said writ petitions as stated supra.

14. Insofar as the said order passed by the Writ Court in W.P.No.12564 of 2015 dated 27.04.2015, in fact the very same Department who are appellants herein preferred intra-Court appeal in W.A.No.37 of 2018 which came to be decided by a Co-ordinate Bench of this Court, where one of us (R.S.K.J.) is a party, who passed an order on 05.07.2023, where, the Division Bench has taken the following view:

"7. We have noticed that in fact the learned Judge, having taken note of the earlier order passed by this Court in W.P.No.25001 of 2012, has allowed those writ petitions. If we look at the earlier order that was passed in W.P.No.25001 of 2012 reported in **2015 (5) Law Weekly 140** in the matter of **S.Chandrasekaran and Others -vs- The Government of**



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**Tamil Nadu, rep. by Secretary to the Government, School Education Department and Others,** a detailed discussion had been taken, where the issue has been discussed threadbare and ultimately the writ petitions filed by the persons similarly placed like the respondents herein, were allowed by the learned Judge.

8. In the said judgment in **S.Chandrasekaran's** case, the learned Judge has taken note of the fact that already similar issue was considered in W.P.No.20706 of 2010, where a batch of writ petitions were allowed by order dated 05.08.2011 and this factor has been taken into account by the learned Judge in Para 27 of the said judgment in **S.Chandrasekaran's** case, which reads thus,

" 27. This Court allowed the aforesaid writ petitions in W.P.Nos.20706 of 2010 etc., batch on 05.08.2011 and quashed the proceeding of the Director of Elementary Education dated 23.07.2010 and held that the persons, who were promoted as Primary School Headmasters after 01.06.1988 are entitled to receive monetary benefits pursuant to their Selection Grade / Special Grade pay fixation of Primary School Headmaster, besides the monetary benefit in respect of retiral benefits. Para 6 and a passage in Para 7 of the said judgment are extracted hereunder:

"6. In all these matters, the petitioners had served as Primary School Headmasters and retired from service. It is seen from the perusal of the G.O.Ms.No.207, School Education



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*Department, dated 30.09.2008 that for the persons, who have been appointed as Primary School Headmasters after 01.06.1988, their pay scales have to be fixed pursuant to the fixation of pay in the selection and special grade. The said Headmasters are entitled to claim retiral monetary benefits and benefits of fixation of pay.*

*7. Therefore, this Court is of the considered view that the impugned orders of the Director of Elementary Education, Chennai, rejecting the claim of the petitioners that they are entitled only to receive the monetary benefits in respect of arrears of pension alone are unsustainable."*

9. More writ petitions filed on the same set of facts, having been considered, were allowed by the writ Court. The relevant portion of the findings in Paras 31 and 32 of the said judgment reads thus,

*" 31. In view of the order dated 05.08.2011 in W.P.No.20706 of 2010 etc., batch quashing the proceeding dated 23.07.2010 of the Director of the Elementary Education with a consequential direction to grant monetary benefits pursuant to the fixation of Selection Grade and Special Grade pay of Primary School Headmaster by counting the service of Secondary Grade Teacher also, besides paying the monetary benefits in respect of retiral benefits, this Writ petition has to be allowed, particularly, when the aforesaid order dated 05.08.2011 in W.P.No.20706 of 2010 etc., batch attained finality.*

*32. Furthermore, it is relevant to note that a learned Single Judge of this Court following the order dated 05.08.2011 in W.P.No.20706 of 2010 etc., batch, has also passed the order dated 16.08.2013 in W.P.No.13147 of 2011 quashing the proceeding dated 23.07.2010 of the Director of Elementary Education and issuing a consequential direction to grant monetary benefits pursuant to the fixation of selection grade and special grade in the post of Primary School Headmaster by counting the service of the Secondary Grade Teacher, in paragraph 4 of the order dated 16.08.2013 in W.P.No.13147 of 2011, the learned Single Judge relied on the order of this Court dated 05.08.2011 in W.P.No.20706 of 2010 etc., batch, and extracted paras 6 and 7 of the order dated 05.08.2011 in*



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*W.P.No.20706 of 2010 etc., batch, and extracted paras 6 and 7 of the order dated 05.08.2011 in W.P.No.20706 of 2010 etc., batch, which is also extracted by me in paragraph 27 of this judgment and in paragraph 5 of the order dated 16.08.2013 in W.P.No.13147 of 2011, the writ petition was allowed and the said paragraph 5 is also extracted hereunder:*

*5. Thus, in the light of the above quoted order, the petitioner is entitled to succeed and accordingly the writ petition is allowed and the impugned order is quashed and the respondents are directed to consider the claim of the petitioner and grant the arrears of pay, as sought for by the petitioner. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order."*

10. It is to be noted that, as against the said judgment made in **S.Chandrasekaran's** case, writ appeal had been filed by the appellant Department in W.A.No.1734 of 2015 and the said writ appeal came to be dismissed by a Division Bench of this Court on the ground of default on 01.12.2016, against which no steps have been taken by the appellant Department so far and this factor is confirmed on verifying the case status from the website of this Court.

11. It is further to be noted that, insofar as the earlier order passed by the writ court in W.P.No.20706 of 2010 dated 05.08.2011 is concerned, no intra court appeal had been filed by the Department and this has been recorded by the learned Judge in **S.Chandrasekaran's** case that the judgment in W.P.No.20706 of 2010 etc., batch has become final.



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12. When that being the factual matrix, absolutely there is no error in allowing the writ petitions filed by these respondent teachers through the impugned order. Hence, it does not warrant any interference from us. Accordingly, this writ appeal fails and it is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.”

15. When that being the position, now in this writ appeal the order passed by the learned Judge by order dated 23.09.2014 setting aside the proceedings of the Director dated 23.07.2010 and a consequential direction, is under challenge.

16. In the connected writ petitions either writ of certiorarified mandamus or a writ of mandamus have been sought for. In the writ of certiorari, the very same proceedings of the Director dated 23.07.2010 is under challenge and in the mandamus portion, the respective petitioners sought for direction from this Court to the respondents to extend the benefit as provided under G.O.(Ms).No.207 referred to above to the petitioners which includes the arrears of salary as well as pension.

17. Heard the learned Government Advocate appearing for the appellants as well as the contesting respondents in the writ appeals and



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also heard the learned counsel appearing for the petitioners as well as the respondents in the respective writ petitions.

18. As has been narrated herein above, the issue raised in this batch of cases is no more *res integra*. The benefits which are to be conferred for those who earned the promotion as Primary School Headmaster after the cut-off date i.e. 01.06.1988 also have been extended to them by virtue of G.O.Ms.No.207 and the import of G.O. has already been quoted herein above.

19. However, diagonally opposite to the said import of the G.O., an interpretative proceeding was issued by the Director of School Education Department dated 23.07.2010, when it was questioned, it was rightly held by this Court right from 2012 that, the said proceedings is not in consonance with the said G.O.(Ms).No.207, therefore those who were promoted as Primary School Headmasters after 01.06.1988 are entitled to get such benefit by virtue of G.O.(Ms).No.207 and such benefits seems to have been conferred to some of them.

20. Atleast against one judgment passed by the Writ Court when



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intra-Court appeal was preferred before this Court by the appellant Department that was dismissed, of course, on the default ground against which no steps have been taken and this factor has been recorded by the Co-ordinate Bench in the decision dated 05.07.2023 in W.A.No.37 of 2018.

21. Therefore the issue has been settled and concluded where those teachers who were initially working as Secondary Grade Teachers and subsequently earned promotion as Primary School Headmaster after 01.06.1988 are entitled to get the benefit of Selection Grade and Special Grade and accordingly the pay has to be necessarily revised, therefore based on the revised pay what are all the arrears of pay shall be paid to them and correspondingly their pension also to be revised and after revision of pension, the arrears of pension also shall be paid to them and they are entitled to continuously receive the same till their lifetime.

22. Insofar as this benefit conferred on them is concerned, absolutely there can be any quarrel as the issue raised, as stated supra, has been settled. Therefore following the earlier judgments passed by this Court including the latest one of the Co-ordinate Bench dated



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05.07.2023, we are inclined to dispose of these writ appeals as well as the writ petitions to the following effect:

(i) That the Writ Appeals in W.A.Nos.2857 of 2019, 1038 of 2017, 944 of 2017, 1663 of 2018, 1766 of 2018, 671 of 2018, 688 of 2018, 704 of 2018, 3738 of 2019, 3166 of 2019 and 957 of 2019 are deserved to be dismissed, accordingly they are dismissed and the writ petitions in W.P.Nos.25680 of 2011, 8962 and 8963 of 2011, 21852 of 2014, 15496 of 2014, 2112 of 2015, 22175, 22176, 22177, 22178, 22179, 22180, 22181, 22182 of 2015, 24456 of 2015, 12990 of 2016 and 22176 of 2021 are allowed.

(ii) As a sequel, the respective retired Teachers who earned the promotion as Primary School Headmasters after 01.06.1988 are entitled to get the benefit of salary dues as well as pension dues by way of arrears and that shall be calculated and be paid to the respective retired Teachers/Primary School Headmasters by the appellant Department within a period of three months from the date of receipt of a copy of this judgment.

23. With the above observations and directions, all these Writ



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Appeals and Writ Petitions are disposed of to the terms indicated above.

No costs. Consequently, connected miscellaneous petitions are closed.

(R.S.K., J.) (K.B., J.)

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Index : Yes

Speaking Order : Yes

Neutral Citation : Yes

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