



W.A.(MD)Nos.478 to 480 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2023

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**  
AND

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)Nos.478 to 480 of 2015

and

M.P.(MD)Nos.1,2 & 2 of 2015

1.The Director of Elementary Education,  
College Road, Nungambakkam,  
Chennai.

2.The District Elementary Education Officer,  
Madurai District, Madurai.

3.The Additional Assistant Elementary Educational Officer,  
Tirumangalam,  
Madurai District.

...Appellants in all appeals

/Vs./

1.J.Sellathai

1.A.Kanaga Rathinam

1.E.Rathinam

...1<sup>st</sup> respondent in all appeals

2.The Accountant General Office of the  
Accountant General,  
(Accounts and Entitlements),  
261, Anna Salai, Chennai.

...2<sup>nd</sup> Respondent in all appeals



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**COMMON PRAYER:-** Writ Appeals - filed under Clause XV of Letters Patent Act, to set aside the order dated 24.11.2014 passed in W.P. (MD)Nos.13385, 13393, 13397 of 2009 and allow the Writ Appeals.

For Appellants :Mr.V.Om Prakash (in all appeals)

Government Advocate

For Respondents :Mr.J.Gunaseelan Muthaiah (R1) (in all appeals)

Mr.P.Gunasekaran (R2) (in all appeals)

### **COMMON JUDGMENT**

(Judgment of the Court was made by **DR.ANITA SUMANTH, J.**)

These writ appeals have been filed by the officials of the Department of Elementary Education challenging the order of the Writ Court dated 24.11.2014. We have heard Mr.V.Om Prakash, learned Government Advocate for the appellants, Mr.P.Gunasekaran, learned counsel for the office of the Accountant General and Mr.J.Gunaseelan Muthaiah, learned counsel for the private respondents / writ petitioners.



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2. The writ petitions had been filed challenging orders passed by the Department of Elementary Education and seeking a direction to the office of the Accountant General to revise scale of pay of the petitioners in Special Grade Pay Scale of Primary School Headmaster on and from 27.06.1997, 25.06.1997 and 13.07.1997 respectively and accordingly, pay over arrears of salary refixing the pension date with all consequential benefits.

3. The writ petitioners had relied on G.O.Ms.No.207, School Education (G2) Department, dated 30.09.2008. The Writ Court had allowed the claim of the writ petitioners noticing that the office of the Accountant General had conceded to their claim citing G.O.Ms.No.207, School Education (G2) Department, dated 30.09.2008. The G.O. stated that pay of persons who had been promoted as Headmaster after 01.06.1988 shall be refixed in terms of G.O.Ms.No.160, School Education (G) Department, dated 23.08.2005.



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4. Their contention had been that selection / special grade had to be fixed in scale of pay of Headmaster by counting 10/20 years of service in Secondary Grade from time of appointment as secondary grade teacher and thereafter as Headmaster from the date of appointment in that post. The Writ Court refers to a decision of the Division Bench of this Court in W.A.(MD)No.815 of 2010 and batch (order dated 07.07.2011) to the effect that those writ petitioners had been granted benefits similar to what had been sought by the present writ petitioners.

5. The Writ Court proceeded on the premise that pay of persons holding the post of Headmaster as on 01.06.1988 should be refixed by counting their service as Secondary Grade Teacher in Selection Grade and Special Grade. In such a instance, the petitioners had, on date of promotion as Headmaster of Elementary School, completed tenure in excess of 10 years being 16 years, 14 years and 14 years respectively completing 22 years, 15 years and 18 years respectively, as on date of their retirement. The Writ Court thus concluded that the entirety of the



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period of past service was to be counted for the purpose of granting the selection / special grade as on date of their promotion as Headmaster.

6. The details of the relevant dates in cases of all writ petitioners is tabulated as under:

| S. No | Case No               | Teachers name, Designation & School            | Date of appointment with scale of pay | Sec Gr Teacher                                               |                                                                  | Primary School Head Master                                             |                                                                             | Date of Retirement |
|-------|-----------------------|------------------------------------------------|---------------------------------------|--------------------------------------------------------------|------------------------------------------------------------------|------------------------------------------------------------------------|-----------------------------------------------------------------------------|--------------------|
|       |                       |                                                |                                       | Date of Selection Grade & Pay                                | Date of Special Grade & Pay                                      | Date of Proposal as Head master & Scale of Pay                         | Date of selection Grade & Pay                                               |                    |
| 1     | WP (MD) No. 1338 5/09 | J.Chellathai, Headmistress, Pups, Kandai       | 04.10.1971<br>(65-1-70-2-90)          | Rs.475/-<br>(400-15-49<br>0-20-650-2<br>5-700)<br>07.06.1981 | Rs.1700/-<br>(1640-60-2<br>600-75-29<br>00)<br>08.06.1991        | 27.06.1997<br>Rs.2060/-<br>(1640-60-2<br>600-75-29<br>00)              | Rs.7100/-<br>(6500-200-10<br>500) w.e.f<br>01.09.1998<br>(As per GO<br>212) | 31.05.2003         |
| 2     | WP (MD) No. 1339 3/09 | A.Ganagarathinam, Headmaster, Pups, Alagusirai | 02.10.1973<br>(65-1-70-2-90)          | Rs.490/-<br>(400-15-49<br>0-20-650-2<br>5-700)<br>02.10.1983 | Rs.<br>1760+40/-<br>(1640-60-2<br>600-75-29<br>00)<br>02.10.199  | 25.06.1997<br>Rs.2000/-<br>+Rs.40 PP<br>(1640-60-2<br>600-75-29<br>00) | Rs.7100/-<br>(6500-200-10<br>500) w.e.f<br>01.09.1998<br>(As per GO<br>212) | 30.11.1998         |
| 3     | WP (MD) No. 1339 7/09 | I.Rathinam, Headmaster, Pups, Alagusirai       | 01.06.1974<br>(65-1-70-2-90)          | Rs.510/-<br>(400-15-49<br>0-20-650-2<br>5-700)<br>01.06.1984 | Rs.<br>1820+30/-<br>(1640-60-2<br>600-75-29<br>00)<br>01.06.1994 | 13.07.1998<br>Rs.6375/-<br>(5500-175-<br>900)                          | Rs.7100/-<br>(6500-200-10<br>500) w.e.f<br>01.09.1998<br>(As per GO<br>212) | 28.02.2000         |



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7. In all cases, appointments were in the 70's and the writ petitioners have been granted selection and special grade even prior to their promotion as Headmaster of Elementary School. Writ petitioners have relied on G.O.Ms.No.207, School Education (G2) Department, dated 30.09.2008. The relevant portion of the GO reads as under:-

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

8. There is no indication whatsoever for the grant of a double benefit to a candidate in respect of selection and special grade. The only benefit extended under the GO relates to the grant of one instance of selection and special grade pay, which in this case, has been granted already to the writ petitioners.



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9. Writ petitioners rely on the decision of the Full Bench in a batch of Review Applications in Rev.Aplc.227 of 2015 etc., batch (Order dated 09.12.2016). Those review applications were filed by candidates, who were seeking grant of selection and special grade to Headmaster by counting their service as Secondary Grade Teachers and such benefit was granted.

10. That decision would have no bearing in the facts and circumstances of the present cases, where the writ petitioners have already been the beneficiaries of selection and special grade pay. The grievance of the candidates in that batch of writ petitions was that neither their service as Secondary School Teacher nor as High School Headmaster, taken separately, had been sufficient to avail benefit of selection / special grade of pay.

11. It was in such a situation that an exception had been made



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and their plea accepted, granting them the benefit of selection/special grade pay counting the entirety of their service as secondary school teacher and headmaster, taken together. That situation does not arise in the present case since the service of the writ petitioners as secondary grade teachers has itself been sufficient to enable them to receive both selection and special grades of pay.

12. The question of counting that service yet again for grant of one more round of selection / special grade of pay in the post of High School Headmaster does not arise. The order of the writ Court is reversed and the appeals of the state are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

**[A.S.M.J.] & [R.V.J.]**  
**31.07.2023**

NCC :Yes/No  
Index :Yes/No  
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**DR.ANITA SUMANTH, J.**  
**AND**  
**R.VIJAYAKUMAR, J.**

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Common Judgment made in  
**W.A.(MD)Nos.478 to 480 of 2015**

Dated:  
**31.07.2023**