

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2015

CORAM

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.12370 of 2015

1. N.Perumalsamy
2. L.Markabandhu
3. M.Glory

.. Petitioners

Vs.

- 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.
 3. The District Elementary Educational Officer,
Vellore District, Vellore.
 4. The Assistant Elementary Educational Officer,
Katpadi Panchayat Union,
Katpadi, Vellore District.
- ... Respondents

* * *

Prayer : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to fix the pay of the petitioners in Selection Grade/Special Grade in the post of Middle School Headmaster by computing their entire services rendered as Secondary Grade Assistant Teacher, Elementary School Headmaster and Middle School Headmaster with effect from 01.06.1988, by extending the benefits of G.O.Ms.No.210, School Education (G1) Department, dated 14.08.2009 in favour of the petitioners and pay the arrears with other consequential benefits.

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For Petitioners : Mr.A.S.Kaizer

For Respondents : Mr.S.Gunasekaran
Government Advocate

ORDER

Heard both sides.

2.1. Before 01.10.1970, the post of Secondary Grade

Teacher, Primary School Headmaster and Middle School Headmaster carried the same scale of pay.

2.2. After 01.10.1970, the post of Middle School Headmaster became a promotional post. However, the juniors were retained, after 01.10.1970, in the post of Middle School Headmaster. This led to various litigations.

2.3. In those circumstances, the Government issued G.O.Ms.No.784, Rural Development and Local Administration Department, dated 14.05.1979, reverting the juniors, who are holding the post of Middle School Headmaster as on 01.10.1970, as Secondary Grade Teacher or Primary School Headmaster, since both the post of Secondary Grade Teacher and Primary School Headmaster carried the same scale at that time, protecting the interest of junior teachers by protecting the scale of pay of Middle School Headmaster, which they received. That is, after about 9 years, the aforesaid development took place and the Government issued G.O.Ms.No.784.

2.4. The junior teachers, who faced reversion, challenged the Government Order in G.O.Ms.No.784, dated 14.05.1989, and obtained order of stay and thereby continued as Middle School Headmaster, pursuant to the said order. Hence, the seniors got affected.

2.5. The matter went upto the Apex Court and the Apex Court was not willing to interfere with the government order in G.O.Ms.No.784 as it gave the benefit to both senior and junior teachers.

2.6. In those circumstances, the issue was resolved by the Tamil Nadu Administrative Tribunal in the order dated 25.04.1996 in O.A.Nos.2250 of 1991 directing to count the service rendered as Secondary Grade Teacher/Primary School Headmaster to give Selection Grade / Special Grade to the Middle School Headmaster, who joined as a Secondary Grade Teacher before 01.10.1970. The said order was followed by the Tamil Nadu Administrative Tribunal in the order dated 17.04.2002 in O.A.No.3521 of 1997 etc. batch.

2.7. Pursuant to V Pay Commission recommendation, which was implemented with effect from 01.06.1988, there was also revision in the scale of Middle School Headmaster.

2.8. The petitioners involved in those Original Applications before Tamil Nadu Administrative Tribunal were promoted as Middle School Headmaster before 01.06.1988 and hence, they sought the revision of scale of pay applicable to the post of Middle School Headmaster as on 01.06.1988 by granting them the revision for Selection Grade / Special Grade in the post of Middle School Headmaster by counting the service

rendered as Secondary Grade Teacher and Primary School Headmaster.

2.9. Later, some of the petitioners in the batch filed W.P.No.29626 of 2005 and 29624 of 2005 seeking for implementation of the order of the Tribunal, which attained finality and this Court by the order dated 15.09.2005 directed the respondents therein to implement the order. The said order was also confirmed by a Division Bench in W.A.No.223 on 21.04.2008.

2.10. Thereafter, the Government issued G.O.Ms.No.210, School Education (G1) Department, dated 14.08.2009, for counting the service rendered as Secondary Grade Teacher and Primary School Headmaster before 01.06.1988 for the purpose of grant of Selection Grade / Special Grade pay to Middle School Headmaster, in respect of the petitioners in those Original Applications, who became Middle School Headmaster before 01.06.1988.

3.1. The service particulars of the petitioners, as stated from the affidavit are as follow :

Name	Secondary Grade Appointment	Elementary School HM promotion	Middle School HM Promotion	Date of Retirement
1. N.Perumalsamy	01.10.1986	23.04.1993	04.07.1994	31.05.2002
2. L.Markabandhu	26.07.1967	07.06.1993	05.07.1994	31.05.2002
3. M.Glory	02.06.1966		23.06.1997	31.05.2005

3.2. Since the petitioners were appointed as Secondary Grade Teachers before 01.10.1970, the petitioners are entitled to seek Selection Grade / Special Grade for the post of Middle School Headmaster, on promotion to the post of Middle School Headmaster.

3.3. By applying the judgments, referred to above, and also the Government Order in G.O.Ms.No.210, School Education (G1) Department, dated 14.08.2009, the petitioners could seek to count the service rendered as Secondary Grade Teachers and Primary School Headmasters to grant Selection Grade / Special Grade in the post of Middle School Headmaster, when the petitioners were promoted as Middle School Headmasters.

3.4. But the petitioners could not seek to grant Selection Grade / Special Grade pay in the post of Middle School Headmaster as on 01.06.1988, since the petitioners did not become Middle School Headmaster as on 01.06.1988, while the persons governed by G.O.Ms.No.210 were Middle School Headmasters as on 01.06.1988.

3.5. Since, the petitioners rendered more than 27 years of service as Secondary Grade Teacher and Primary School Headmaster, when they became Middle School Headmaster, they shall be granted Special Grade pay of Middle School Headmaster on their very initial promotion as Middle School Headmaster and the petitioners need not serve 20 years as Middle School Headmaster to get the Selection Grade / Special Grade scale of pay and on the other hand, on the very first day of promotion as Middle School Headmaster, the petitioners are entitled to the fixation of Middle School Headmaster. But the petitioners could not ask for Selection Grade / Special Grade pay of Middle School Headmaster with effect from 01.06.1988.

3.6. But, curiously, the petitioner seek to grant the Selection Grade / Special Grade Pay of Middle School Headmaster with effect from 01.06.1988, while the petitioners were not promoted as Middle School Headmaster as on 01.06.1988.

4. The persons involved in those Original Applications and writ petitions referred to above were promoted as Middle School Headmasters before 01.06.1988. This could be seen from G.O.Ms.No.210, dated 14.08.2009. Hence, the petitioners could not compare with them and seek Selection Grade / Special Grade pay of the Middle School Headmaster from 01.06.1988.

5. 65 persons involved in those litigations, namely, Original Applications were promoted as Middle School Headmasters before 01.06.1988. In fact, this reflects in the very G.O.Ms.No.210, dated 14.08.2009 itself. Hence, as on 01.06.1988, they are entitled to revision in the scale of pay of Selection Grade / Special Grade for the post of Middle School Headmaster by counting their service in the post of Secondary Grade Teacher and Primary School Headmaster.

6. Hence, in my view, the petitioners are entitled to Special Grade pay, with effect from the date of promotion as Middle School Headmaster, as per the order dated 17.04.2002 in O.A.No.3521 of 1997 etc. batch and the order dated 15.09.2005 in W.P.Nos.29626 of 2005 and 29624 of 2005 and G.O.Ms.No.210, School Education Department, dated 14.08.2009. The petitioners cannot mechanically seek to give Special Grade pay in the post of Middle School Headmaster from 01.06.1988 relying on the said G.O., as the petitioners cannot compare with those persons, since those persons governed by G.O.Ms.No.210, dated 14.08.2009, were promoted to the post of Middle School Headmaster prior to

01.06.1988, while the petitioners were promoted as Middle School Headmasters in the year 1994 and 1997.

7. In view of the aforesaid narration of facts, the petitioners are entitled to Special Grade with effect from the date of their promotion as Middle School Headmasters, i.e., from 04.07.1994, 05.07.1994 and 23.06.1997 respectively, and the petitioners cannot seek the Special Grade from 01.06.1988 in the post of Middle School Headmaster. The first and second petitioners retired from service on 31.05.2002 and the third petitioner retired from service on 31.05.2005. Accordingly, the petitioners shall be granted Special Grade pay from the date of their promotion to the post of Middle School Headmaster, if the petitioners were not given the same already, with all monetary benefits and the pensionary benefits shall be granted accordingly and arrears, including the terminal benefits, if any, shall be granted to the petitioners within a period of four weeks from the date of receipt of a copy of this order, in the light of the aforesaid direction.

8. The writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

1. The Principal Secretary,
School Education Department,
Government of Tamil Nadu,
Fort St. George, Chennai-600 009.
2. The Director of Elementary Education,
College Road, Chennai-600 006.
3. The District Elementary Educational Officer,
Vellore District, Vellore.
4. The Assistant Elementary Educational Officer,
Katpadi Panchayat Union, Katpadi, Vellore District.

+1 cc to Mr.A.S.Kaizer, Advocate, sr.23662

+1 cc to Government Pleader, sr.23731

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ca co, kra 03/11/2015