

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.4.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Writ Petition No. 12468 of 2015

A.Thailammai

... Petitioner

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-6
 - 3 The District Elementary
Educational Officer
Cuddalore District, Cuddalore
 - 4 The Assistant Elementary
Educational Officer
Kammapuram Panchayat Union
Kammapuram Cuddalore District
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of writ of Mandamus, directing the respondents to fix the pay of the petitioner's Husband, namely, Late.K.Narayanasamy in Selection Grade/Special Grade in the post of Elementary School Headmaster by taking into account his entire services as Secondary Grade Assistant Teacher and Elementary School Headmaster before and after 1.6.1988 by extending the benefits of G.O.Ms.No.234 School Education (G2) Department dated 10.9.2009 in favour of the petitioner's husband and consequently fix the pension to be paid to the petitioner and pay the arrears with other consequential benefits to the petitioner.

For Petitioners : Mr. A.S.Kaizer
For Respondents : Mr.S.Gunasekaran
Government Advocate

O R D E R

By consent, the writ petition itself is taken up for final disposal.

2. The petitioner has come up with this writ petition, directing the respondents to fix the pay of her Husband, namely, Late.K.Narayanasamy, in Selection Grade/Special Grade in the post of Elementary School Headmaster by taking into account his entire services as Secondary Grade Assistant Teacher and Elementary School Headmaster before and after 1.6.1988 by extending the benefits of G.O.Ms.No.234 School Education (G2) Department dated 10.9.2009 in favour of the her husband and consequently fix the pension to be paid to the petitioner and pay the arrears with other consequential benefits to the petitioner.

3. The husband of the petitioner was appointed as Secondary Grade teacher on 01.1.1971 and thereafter promoted as Elementary School Head Master on 28.01.1991 and retired from service on 28.2.2015 from Panchayat Union Middle School, Vepangurichi, Kammapurai Panchayat Union, Cuddalore District. According to the petitioner, services of her husband is governed by the Tamil Nadu Elementary Educational Subordinate Service. According to her, prior to 01.6.1988, both the pay of Secondary Grade teacher and Elementary School Headmaster was one and the same and hence, the Government issued various orders to count the services rendered in the post of Secondary Grade Teacher before 01.6.1988 for the purpose of grant of Selection Grade/Special Grade in the post of Elementary School Headmaster. The husband of the petitioner is not given such benefit by counting his services rendered as Secondary Grade Teacher before 01.6.1988 for the purpose of grant of Selection Grade / Special Grade in the post of Primary School Headmaster.

4. I have considered this issue at length, by order dated 11.11.2014, in WP.No. 25001 of 2012 (S.CHANDRASEKARAN V. THE GOVERNMENT OF TAMIL NADU, REP.BY SECRETARY TO THE GOVERNMENT, SCHOOL EDUCATION DEPARTMENT AND THREE OTHERS). It is useful to extract the relevant portion of the said order, which reads thus:

60. Applying the same analogy, the persons who joined as Secondary Grade Teachers before 01.06.1988 is entitled to claim the benefit of counting the service of Secondary Grade Teachers for Selection Grade and Special Grade in the post of Primary School Headmaster, if they were promoted as Primary School Headmaster after 01.06.1988, without fixing the cut off date as 31.12.1995.

61. As far as the persons, who were holding the post of Primary School Headmasters as on 01.06.1988, the Government themselves granted the benefit, though they were juniors, as stated above.

62. It is well settled in a catena of

decisions that the State shall not discriminate its employees in granting monetary benefits, if they are similarly situated only on the ground that some did not come to the Court, as such discrimination amounts to violation of Articles 14 and 16 of the Constitution.

63. A learned Single Judge of this Court in N.S.Balasubramanian V. Food Corporation of India, 2006 WLR 327, by relying on the judgments of the Apex Court in K.C.Sharma V. Union of India, AIR 1997 SC 3588 and State of Karnataka and Others V. N.Parameshwarappa and Others, (2003) 12 SCC 192, held in paragraph 16 as hereunder :

"16. From the analysis of the judgments cited above, it is beyond doubt and clear that once the point is decided in favour of a group of persons, there is no further point in waiting for each and every person to file petition and pray for the same relief. As held by the Honourable Court, the benefit of the judgment is equally applicable to similarly placed persons to do complete and substantial justice."

64. In paragraph 14 of the judgment in 2006 WLR 327, the learned Single Judge also held as follows :

"14. Article 14 of the Constitution of India clearly prohibits discrimination and if any discrimination without any intelligible differentia, certainly violation will be hit by Article 14 of the Constitution of India, which is a guaranteed fundamental right available to any person."

65. For all the aforesaid reasons, the writ petition is allowed and the proceeding dated 23.07.2010 in Na.Ka.No.2200/C2/2010 of the second respondent is quashed and a direction is issued to the respondents to extend the benefit of counting the service of Secondary Grade Teacher for grant of Selection Grade and Special Grade in the post of Primary School Headmaster with monetary benefits to the persons who were promoted after 01.06.1988, if those teachers joined prior to 01.06.1988 without reference to the date of promotion as Primary School Headmaster and without driving them to this Court to obtain an order in their favour and also a direction is issued to the respondents to pay the monetary benefits, i.e., arrears of pay to the petitioners, pursuant to the grant of Special Grade in the post

of Primary School Headmaster with effect from 01.07.1994, 14.01.1999 and 07.11.1992 by the fourth respondent in the proceeding dated 07.01.2012, 27.01.2012 and 10.02.2012 respectively, within a period of eight weeks from the date of receipt of a copy of this order.

4. Following the aforesaid order, a direction is issued to the first respondent to grant Selection Grade/Special Grade to the husband of the petitioner by counting the services rendered by him before 01.6.1988 as Secondary Grade Teacher with all monetary benefits. It is made clear that the pension of the petitioner shall also be revised. Such exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order.

The writ petition is allowed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government
School Education Department
Fort St.George, Chennai - 600 009
2. The Director of Elementary
Education College Road Chennai-6
- 3 The District Elementary
Educational Officer
Cuddalore District, Cuddalore
- 4 The Assistant Elementary
Educational Officer
Kammapuram Panchayat Union
Kammapuram Cuddalore District

+lcc to Mr.A.S.Kaizer, Advocate, S.R.No.23663
+lcc to the Government Pleader, S.R.No.23322

W.P.No.12468 of 2015

BKY(CO)
CA(15/05/2015)