

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.12558 of 2015

A.Sivanesan

... Petitioner

Versus

1. The State of Tamil Nadu
Rep. By its Secretary
Department of School Education
Fort St.George, Chennai-600009
2. The Director of Elementary Education
DPI Compound, College Road, Chennai-600 006
3. The District Elementary Educational Officer
Kancheepuram District,
Kancheepuram
4. The Assistant Elementary Educational Officer
Kattankulathur,
Kancheepuram District

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus directing the 1st respondent to extend the benefits of the G.O.Ms.No.234, School Education (G2) Department, dated 10.09.2009, in so far as the petitioner concerned and accordingly to award Selection grade/Special Grade scale of pay in the post of Elementary School Headmaster by taking into account their lower grade services.

For Petitioner : Mr.G.Punniyakotti

For Respondents : Mr.V.Jayaprakash Narayan,
Special Government Pleader

O R D E R

With the consent of both sides, the Writ Petition itself is taken up for final disposal.

2. The Petitioner was initially appointed as Secondary Grade Teacher and subsequently promoted as Elementary School Head Master on 19.06.1997 and retired from service on 31.03.1999. The services of the petitioner is governed by Tamil Nadu Elementary Educational Subordinate Service Rules framed under Article 309 of the Constitution of India.

3. Before 01.06.1988, the post of Secondary Grade Teacher as well as the post of Primary School Headmaster carried the same scale of pay. After 01.06.1988, the post of Primary School Headmaster became promotional post from the post of Secondary Grade Teacher and higher scale was given, during which time, the Secondary Grade Teachers, who were holding the post of Primary School Headmaster as on 01.06.1988 were allowed to be continued as Primary School Headmaster after 01.06.1988, that is, the juniors, who were holding the post as on 01.06.1988 continued as Primary School Headmasters, while some of their seniors continued to work as Secondary Grade Teachers. While so, the Government issued orders in G.O.Ms.No.1381, Education Department, dated 05.10.1990 that the Secondary Grade Teachers, who were holding the post of Primary School Headmaster as on 01.06.1988, are entitled for selection grade and special grade pay of Primary School Headmaster by counting the service rendered as Secondary Grade Teacher also.

4. According to the petitioner, this Court had already directed the School Education Department to award Selection Grade/Special Grade scale of pay to those who were promoted as Headmasters of Elementary Schools after 01.06.1988 by counting their earlier service prior to 01.06.1988. The grievance of the petitioner is that he should also be given the same benefit with arrears.

5. It is submitted by both sides that the issue is covered by the decision in the case of S.Chandrasekaran and others Vs. The Government of Tamil Nadu, rep. By Secretary to the Government, School Education Department and others in W.P.No.25001 of 2012 dated 11.11.2014.

6. I have considered in detail about the history of the Selection Grade and Special Grade Teachers in the post of Primary School Headmaster by counting their service rendered in the selection grade Secondary Grade Teacher Post, if they were appointed as Secondary Grade Teachers, prior to 01.06.1988. It is relevant to extract Paragraph 60, 62 and 65 of the said judgment.

"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.

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.

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, within a period of eight weeks from the date of receipt of a copy of this order. "

7. In view of the judgment dated 11.11.2014 passed in W.P.No.25001 of 2012, these Writ Petitions are allowed. The impugned order is quashed and the respondents are directed to grant arrears of pay in respect of pay fixation done under the G.O.Ms.No.207 School

Education (G2) Department dated 30.09.2008 to the petitioners. The said exercise shall be carried out by the respondents within a period of 12 weeks from the date of receipt of a copy of this order. No costs. Consequently, connected MP is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

nvsri Sub Assistant Registrar

To

1. The Secretary
The State of Tamil Nadu
Department of School Education
Fort St.George, Chennai-600009
2. The Director of Elementary Education
DPI Compound, College Road, Chennai-600 006
3. The District Elementary Educational Officer
Kancheepuram District,
Kancheepuram
4. The Assistant Elementary Educational Officer
Kattankulathur, Kancheepuram District

+1cc to M/s.G.Punniyakotti, Advocate, S.R.No.23161
+1cc to the Government Pleader, S.R.No.23325

सत्यमेव जयते

W.P.No.12558 of 2015

SAI (CO)
CA(25/05/2015)

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