

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2015

CORAM

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.33070 of 2014
and M.P.No.1 of 2014

M.Dharmalingam

.. Petitioner

Vs.

1. The State of Tamil Nadu
rep. by its Secretary,
Education (G1) Department,
Fort St. George, Chennai-600 009.
 2. The Director of Elementary Education,
D.P.I., College Road, Chennai - 600 006.
 3. The District Elementary Educational Officer,
Nagapattinam District.
- .. Respondents

* * *

Prayer : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent Letter No.Na.Ka.No.28964/D2/2013, dated 01.10.2014, and quash the same ; consequently direct the first respondent to extend the benefit as per G.O.Ms.No.210, School Education (G1) Department, dated 14.08.2009 for the fixation of Selection / Special Grade scale of pay by taking count the petitioners of their lower grade services.

* * *

For Petitioner : Mr.R.Sreedharan

For Respondents : Mr.D.Krishnakumar
Special Government Pleader

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 these 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.

3.1. In these 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.

3.2. There was revision in the scale of Middle School Headmaster, pursuant to V Pay Commission recommendation, which was implemented with effect from 01.06.1988.

3.3 The petitioners involved in those Original Applications before Tamil Nadu Administrative Tribunal were promoted as Middle School Headmasters 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 Teachers and Primary School Headmasters.

4. 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.

5. 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.

6. Thus, if one joined as Secondary Grade Teacher before 01.10.1970, such person is entitled to Selection Grade / Special Grade Pay, on his promotion to the post of Middle School Headmaster, by counting the service rendered in the post of Secondary Grade Teacher / Primary School Headmaster. That is, it is made clear that such person shall be granted Selection Grade / Special Grade Pay in the post of Middle School Headmaster on his promotion to the post of Middle School Headmaster.

7. According to the petitioner, he was appointed as Secondary Grade Teacher and got promoted as Middle School Headmaster and he retired as Assistant Elementary Educational Officer. No other service particulars are given in the affidavit filed in support of the writ petition.

8. As stated above, if a Teacher joined as Secondary Grade Teacher before 01.10.1970, he is entitled to Selection Grade / Special Grade pay in the post of Middle School Headmaster, on his promotion to the post of Middle School Headmaster, by counting the service rendered in the post of Secondary Grade Teacher / Primary School Headmaster, from the date of his promotion.

9.1. For the aforesaid reasons, this writ petition is disposed of directing the respondents to find out the service particulars of the petitioner as to whether he joined service before 01.10.1970 and as to whether he was promoted as Middle School Headmaster and if it so, the petitioner is entitled to seek the benefit of Selection Grade / Special Grade pay in the post of Middle School Headmaster, by counting the service rendered as Secondary Grade Teachers/Primary School Headmasters, with monetary benefits with arrears.

9.2. That is, if the petitioner joined before 01.10.1970 and promoted as Middle School Headmasters before retirement, he is entitled to Selection Grade / Special Grade in the post of Middle School Headmaster from the date of his promotion to the post of Middle School Headmaster by counting the service of Secondary Grade Teacher / Middle School Headmaster. On the other hand, eventhough he joined service before 01.10.1970, but he was not promoted as Middle School Headmasters before retirement, he could not ask for Selection Grade/Special Grade pay of Middle School Headmaster and therefore, he cannot seek to count the service rendered as Secondary Grade Teacher/Middle School Headmaster for grant of Selection Grade / Special Grade in the post of Middle School Headmaster.

9.3. It is made clear that if the petitioner joined the service after 01.10.1970 and even if he was promoted as Middle School Headmaster, the petitioner is not entitled to seek the benefit of Selection Grade / Special Grade pay in the post of Middle School Headmaster, by counting the service rendered as Secondary Grade Teachers/Primary School Headmasters, from the date of his promotion as Middle School Headmaster.

10. The above said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order, in the light of the aforesaid directions. It is also made clear that if the petitioner joined service after 01.10.1970, he could not ask for Selection Grade / Special Grade in the post of Middle School Headmaster, by counting the service rendered as Secondary Grade Teacher / Primary School Headmaster.

The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.
gg

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

1. The Principal Secretary to Govt.,
School Education Department,
Government of Tamil Nadu,
Fort St. George, Chennai-600 009.
2. The Director of Elementary Education,
DPI Campus, College Road, Chennai - 600 006.

3. The District Elementary Educational Officer,
Nagapattinam District.

vs (co)
prk16/12

W.P.No.33070 of 2014



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