

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Writ Petition No.16177 of 2015

K.Jayaraman

...Petitioner

vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Department,
School Education Department,
Fort St.George, Chennai - 600 009.
- 2.The Director of Elementary Education,
DPI Compound, College Road, Chennai - 600 006.
- 3.The Assistant Elementary Educational Officer,
Kuttalam - 609 801, Nagapattinam District.
- 4.The Accounts Officer,
Office of the Principal Accountant General
(Accounts and Entitlement) Tamil Nadu,
361, Anna Salai, Chennai - 600 018. ...Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Mandamus, to direct the respondents to pay the petitioner's duty period arrears as per the 4th respondents order dated 07.11.2014 in light of G.O.Ms.No.207 School Education Department, dated 30.09.2008 and G.O.Ms.No.234 School Education (G2) Department, dated 10.09.2009.

For Petitioners : Mr.R.Sreedharan

For Respondents : Ms.M.E.Rani Selvam
Addl. Govt.Pleader for R1 to R3
Mr.V.Vijayshankar for R4

O R D E R

The writ petition is taken up for final disposal, as the matter is covered by various decisions of this Court.

2. The petitioner joined prior to 01.06.1988 as Secondary Grade Teacher and was subsequently, promoted as Primary School Headmaster. He also retired from service.

3. Prior to 01.06.1988, the post of Secondary Grade Teacher as well as the post of Primary School Headmaster carried the same scale of pay. Hence, without reference to seniority, even juniors were appointed as Primary School Headmasters. After 01.06.1988, the post of Primary School Headmaster became promotional post to 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, i.e., 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.

4. This led to lot of litigations. Ultimately, the Government issued various orders, in order to find solution by granting Selection Grade/Special Grade in the post of Primary School Headmasters, by counting their service rendered as Secondary Grade Teachers. G.O.Ms.No.207, School Education Department, dated 30.09.2008 grants such fixation and also monetary benefits. In fact, once fixation is given, monetary benefits cannot be denied.

5. The petitioner was accordingly given fixation, but, he was not given monetary benefits. According to the petitioner, G.O.Ms.No.207, School Education Department, dated 30.09.2008 directed payment of monetary benefits also. Hence, the petitioner sent a representation dated 19.03.2015 to extend the said benefit. Since no order was passed, the petitioner has come up with this writ petition.

6. When a similar issue was raised earlier in a batch of writ petitions in W.P.Nos.20706 of 2010 etc., this Court allowed the said batch of writ petitions vide order dated 05.08.2011 and quashed the proceeding of the Director of Elementary Education, dated 23.07.2010.

7. Following the same, I have passed a detailed order dated 11.11.2014 in W.P.No.25001 of 2012. [S.Chandrasekaran and others v. The Government of Tamil Nadu, rep. by Secretary to the Government, School Education Department and others]. It is relevant to extract paragraphs 60, 62, and 65 of the said order:-

"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. "

8. Thereafter, when W.P.Nos.12584 and 12585 of 2015 with similar prayer was filed, this Court, following the order dated 11.11.2014 made in W.P.No.25001 of 2012, allowed the said writ petitions vide order dated 27.04.2015.

9. Thus, following the aforesaid judgments dated 11.11.2014 and 27.04.2015 rendered by me in W.P. No.25001 of 2012 and

W.P.Nos.12584 and 12585 of 2015, respectively, this Writ Petition is disposed of, directing respondents 1 to 3 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 petitioner. The said exercise shall be carried out within a period of 12 weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS-II)

True Copy

Sub Assistant Registrar

To

- 1.The Secretary to Department,
The State of Tamil Nadu,
School Education Department,
Fort St.George, Chennai - 600 009.
- 2.The Director of Elementary Education,
DPI Compound, College Road, Chennai - 600 006.
- 3.The Assistant Elementary Educational Officer,
Kuttalam - 609 801, Nagapattinam District.
- 4.The Accounts Officer,
Office of the Principal Accountant General
(Accounts and Entitlement) Tamil Nadu,
361, Anna Salai, Chennai - 600 018.

+1cc to The Government Pleader Sr.29022

सत्यमेव जयते

W.P.No.16177 of 2015

ca[co]
srg 6/11/2015

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