

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2015

CORAM

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.16338 of 2015

And

M.P.No.1 of 2015

1 M.Kandaswamy  
2 R.Rangaswamy  
3 V.N.Kandaswamy

... Petitioners

Vs.

1 The Government of Tamil Nadu  
Rep by Secretary to the Government School  
Education Department Fort St. George  
Chennai 9

2 The Director of Elementary  
Education College Road Chennai 6

3 The District Elementary  
Educational Officer Coimbatore District  
Coimbatore

4 The Addl. Assistant Elementary  
Educational Officer Annur Panchayat  
Union Coimbatore.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent issued in Na.Ka.No.2200/C2/2010 dt 23.7.2010 and quash the same in so far as it denies arrears of pay and issue a consequential direction to the respondents to grant arrears of pay in respect of pay fixation done under the G.O.Ms. No.207 School Education (G2) Department dated 30.9.2008.

For Petitioners : Mr.R.Saseetharan  
For Respondents : Mr.V.Jayaprakash Narayanan  
Special Government Pleader

## O R D E R

Heard both sides. By consent of both the parties, the writ petition is taken up for final disposal.

2.The first petitioner was initially appointed as Secondary Grade Teacher and then upgraded as Secondary Grade Teacher in Annur Panchayat Union, Coimbatore District. The second petitioner was appointed as Secondary Grade Teacher in Annur Panchayat Union, Coimbatore District. The third petitioner was initially appointed as Higher Grade Teacher and then upgraded as Secondary Grade Teacher in Sarkar Samakulam Panchayat Union, Coimbatore District and then transferred to Annur Panchayat Union, Coimbatore District. All of them were appointed prior to 01.06.1988. All the petitioners are promoted as Primary School Headmaster after 01.06.1988 as per the seniority and then retired from service as Primary School Headmasters except the third petitioner, from Annur Panchayat Union, Coimbatore District. The Third petitioner was subsequently promoted as B.Ed. Middle School Headmaster on 31.12.2002 and then retired from service. They are 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. This led to lot of litigations. Ultimately, the Government resolved the same by issuing various orders to count the service rendered as Secondary Grade Teacher to grant Selection / Special Grade in the post of Primary School Headmasters, if the Secondary Grade Teachers joined before 01.06.1988.

4.The grievance of the petitioners is that they should also be given the same benefit with arrears.

5.I have considered identical issue in W.P.Nos.12584 and 12585 of 2015 and has passed orders on 27.04.2015, the relevant portion of which reads as follows:

"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 in the post of Primary School Headmaster by counting their service rendered in the 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."

6.In the light of the order dated 27.04.2015 passed in W.P.Nos.12584 and 12585 of 2015, this writ petition is 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 first respondent within a period of 12 weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To

- 1 The Secretary to the Government School Education Department Fort St. George Chennai 9
- 2 The Director of Elementary Education College Road Chennai 6
- 3 The District Elementary Educational Officer Coimbatore District Coimbatore
- 4 The Addl. Assistant Elementary Educational Officer Annur Panchayat Union Coimbatore.

+1 cc to Mr.R.Saseetharam, Advocate (sr.28487)

+1 cc to Government Pleader (sr.29391)

WP.No.16338 of 2015

And

M.P.No.1 of 2015

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cp 29/10/2015