

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2015

CORAM

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.16672 of 2015

1. C.Jayaraman
2. D.Kumaran
3. K.Natarajan
4. Radhabai Somasundaram

... Petitioners

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,
DPI Compound, College Road,
Chennai-600 006.
 3. The Chief Educational Officer,
Thiruvannamalai District,
Thiruvannamalai.
 4. The District Educational Officer,
Thiruvannamalai District,
Thiruvannamalai.
 5. The District Educational Officer,
Vellore District, Vellore.
 6. The Assistant Elementary Educational Officer,
Madhanur Union, Vellore District.
 7. The Assistant Elementary Educational Officer,
West Arni, Thiruvannamalai District.
- ... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to extend the benefit as per

G.O.Ms.No.210, Education (G1) Department, dated 14.08.2009 and G.O.Ms.No.190, School Education Department, dated 12.07.2010, for the fixation of Selection / Special Grade scale of pay by taking count the petitioners of their lower grade services.

For Petitioners : Mr.P.Murali

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. The service particulars of the petitioners, that are required for the purpose of this case, are hereunder :

Sl. No	Name of the Petitioner	Date of promotion as Secondary Grade Teacher	Date of Promotion as Primary School headmaster	Date of Retirement
1	C.Jayaraman	11.11.1965	17.03.1988	31.05.2001
2	D.Kumaran	22.07.1966	04.10.1994	30.06.2002
3	K.Natarajan	25.08.1967	07.07.1995	31.07.2002
4	Radhabai	04.01.1965	04.01.1965	31.05.1999

8. The Teachers are entitled to Selection Grade / Special Grade pay in the post of Middle School Headmaster, from the date of promotion to the post of Middle School Headmaster, by counting the service of Secondary Grade Teachers/Primary School Headmasters, if they joined before 01.10.1970. The petitioners, in their representation, claimed that they served as Middle School Headmasters. But in the service particulars, which they have given in the representation, it is stated that they were promoted as Primary School Headmasters and there is no detail about their service as Middle School Headmasters.

9. 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.

10.1. For the aforesaid reasons, this writ petition is disposed of directing the respondents to find out the service particulars of the petitioners as to whether the petitioners joined service before 01.10.1970 and as to whether they were promoted as Middle School Headmasters and if it so, the petitioners are entitled to seek the benefit of Selection Grade / Special Grade pay in the post of Middle School

Headmasters, by counting the service rendered as Secondary Grade Teachers/Primary School Headmasters, with monetary benefits with arrears.

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

10.3. It is made clear that if the petitioners joined the service after 01.10.1970 and even if they were promoted as Middle School Headmasters, the petitioners are not entitled to seek the benefit of Selection Grade/Special Grade pay in the post of Middle School Headmasters, by counting the service rendered as Secondary Grade Teachers/Primary School Headmasters, from the date of their promotion as Middle School Headmasters.

11. 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 petitioners joined service after 01.10.1970, they could not ask for Selection Grade / Special Grade in the post of Middle School Headmasters, by counting the service rendered as Secondary Grade Teachers / Primary School Headmasters.

The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary,
Education Department,
Government of Tamil Nadu,
Fort St. George, Chennai-600 009.
2. The Director of Elementary Education,
DPI Compound, College Road,
Chennai-600 006.
3. The Chief Educational Officer,
Thiruvannamalai District,
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7. The Assistant Elementary Educational Officer,
West Arni, Thiruvannamalai District.

+1cc to the Government Pleader, S.R.No.39855

W.P.No.16672 of 2015

MG(CO)
CA(15/12/2015)

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