

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.19306 of 2015 and
M.P.No.1 of 2015

A.Sellapillai

...Petitioner

Versus

- 1.The Government of Tamil Nadu
rep. By Secretary to the Government
School Education Department
Fort St.George, Chennai-600009
- 2.The Director of Elementary Education
College Road, Chennai-600 006
- 3.The District Elementary Educational Officer
Salem District, Salem.
- 4.The Assistant Elementary Educational Officer
Athur Panchayat Union
Athur, Salem District

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent issued in Na.Ka.No.2200/C2/2010, dated 23.07.2010 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 30.09.2008 to the petitioner.

For Petitioner : Mr.R.Saseetharan
For Respondents : Mr.V.Jayaprakash Narayan, Spl.G.P.

O R D E R

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

2. The Petitioner is a retired Primary School Headmaster. He was appointed as Secondary Grade Teacher and then promoted as Primary School Headmaster after 01.06.1988 in Athur Panchayat Union. He 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.

4. This led to lot of litigations. Ultimately, the same was resolved by the Government by issuing various orders to count the service rendered as Secondary Grade Teachers for the purpose of granting Selection Grade/Special Grade to the post of Primary School Headmaster.

5. The grievance of the petitioner is that he should also be given the same benefit with arrears.

6. It is submitted by both sides that the issue is covered by the decision of this Court 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.

7. I have considered in detail the history about grant of Selection Grade and Special Grade to the 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. "

8. In view of the judgment dated 11.11.2014 passed in W.P.No.25001 of 2012, the 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 petitioner. 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

True Copy

Sub Assistant Registrar

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To

1.The The Secretary to the Government
Government of Tamil Nadu
School Education Department
Fort St.George, Chennai-600009

2.The Director of Elementary Education
College Road, Chennai-600 006

3.The District Elementary Educational Officer
Salem District, Salem.

4.The Assistant Elementary Educational Officer
Athur Panchayat Union,
Athur, Salem District.

1 cc to Mr. R.Saseetharan, Advocate Sr.No.33279
1 cc to Government Pleader.Sr.No.33365

sr(co)pmk.22.7.2015

W.P.No.19306 of 2015