IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.21237 of 2015
&
M.P.No.1 of 2015

1. S.K.Karuppannan
2.R.V.Kandasamy
3.A.Varadarajan
4.P.Periaswami
5.C.Govindan
6.C.Kannammal
7.K.Palanisamy
8.M.Rajalingam
9.S.Swarnam
10.K.Kandaswamy
11.M.N.Chinnaswamy
12.R.Rajamanickam
13.S.Puvaneswari
14.K.P.Paramasivam
15.M.Palanisamy
16.S.Dravidamani
17.M.Anbumalar
18.N.Danuskodi
19.D.Joseph
20.T.Chandra
21.T.Indirani
22.R.Radhakrishnan
23.M.Elangovan
24.P.Shanmugam
25.S.Balusamy
26.V.Periaswami
27.K.Kandasamy
28.V.Natarjan
29.C.Rajammal
30.S.Kamala
31.V.Uma Rani
32.M.Vasantha
33.P.Muthu
34.C.Rajammal
35.Rajamanickam
36.S.Meenakshi
37.P.Rukmani ... Petitioners

Versus

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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
Karur District, Karur

4.The Assistant Elementary Educational Officer
Karur Panchayat Union
Karur, Karur District

5.The Addl. Assistant Elementary Educational Officer
Karur Panchayat Union
Karur, Karur District ... Respondents

PRAYER: Writ petitions 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 petitioners.

For Petitioners : 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 Petitioners are retired Primary School Headmasters and they were either appointed as Secondary Grade Teacher or upgraded as Secondary Grade Teacher from the post of Higher Grade Teacher and then promoted as Primary School Headmaster after 01.06.1988 in Karur Panchayat Union, Karur District. 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

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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 as Secondary Grade Teacher for the purpose of granting selection grade/ special grade to the post of Primary School Headmaster.

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

6. 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.

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

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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, 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 respondents 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

gpa

To

1.The 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
Karur District, Karur

4.The Assistant Elementary Educational Officer
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Karur, Karur District

5.The Addl. Assistant Elementary Educational Officer
Karur Panchayat Union
Karur, Karur District

+1cc to Mr.Saseedharan, Advocate, S.R.No.36280
+1cc to the Government Pleader, S.R.No.

MG(CO)
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