

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2015

CORAM

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.2982 of 2015

M.S.Gomathi

.. Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by Secretary to Government,
School Education Department,
Fort St. George, Chennai-600 009.
2. The Director, Elementary School Education,
College Road, Chennai-600 006.
3. The District Elementary Educational Officer,
Virudhunagar 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 benefits of G.O.Ms.No.210, School Education (G1) Department, dated 14.08.2009 to the deceased Government servant M.Subburaj, B.Ed. Middle School Headmaster, Panchayat Union Middle School, N.Mettupatti, Sathur Panchayat Union, Virudhunagar District, and to count the service rendered by the deceased Government servant as Secondary Grade Teacher and Primary School Headmaster before 01.06.1988 and to grant Selection Grade and Special Grade scales of Pay in the post of B.Ed. Middle School Headmaster and then grant arrears of pay and to revise the pension and grant consequential arrears of pension to the petitioner as a legal heir insofar as the petitioner's share is concerned.

* * *

For Petitioner : Mr.R.Saseetharan
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. In this case, the petitioner's father was appointed as Secondary Grade Teacher on 03.06.1957. Subsequently, he was promoted as B.Ed. Middle School Headmaster on 11.06.1980. He retired from service on 31.07.1992.

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 petitioner's father herein became Middle School Headmaster on 11.06.1980 and he is entitled to Selection Grade/Special Grade from the date of his promotion as Middle School Headmaster, by counting the service as Secondary Grade Teacher/Primary School Headmaster and accordingly he is also entitled to revision of pay in the Selection Grade/Special Grade in the post of Middle School Headmaster from 01.06.1988 based on G.O.Ms.No.210, dated 14.08.2009, as there was pay revision with effect from 01.06.1988.

9. In my view, the petitioner's father is entitled to seek Selection Grade / Special Grade in the post of Middle School Headmaster by counting the service of Secondary Grade Teacher / Primary School Headmaster from the date on which he was promoted as Middle School Headmaster.

10. In view of the aforesaid narration of facts, the petitioner's father is entitled to Selection Grade / Special Grade pay in the post of Middle School Headmaster with effect from the date of promotion as Middle School Headmaster.

11. For the aforesaid reasons, the petitioner's father shall be granted Selection Grade / Special Grade pay in the post of Middle School Headmaster, by counting the service rendered as Secondary Grade Teacher/Primary School Headmaster/Elementary School Headmaster, from the date of his promotion to the post of Middle School Headmaster, if he was not given the same already, with all monetary benefits and the pensionary benefits with arrears till the date of his death, and the benefits shall be given to the petitioner within a period of four weeks from the date of receipt of a copy of this order, in the light of the aforesaid direction.

The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary,
School Education Department,
Government of Tamil Nadu,
Fort St. George, Chennai-600 009.
2. The Director of Elementary Education,
College Road, Chennai-600 006.
3. The District Elementary Educational Officer,
Virudhunagar District.

+1 CC to Government Pleader, sr.39839

W.P.No.2982 of 2015

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