

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.11674 of 2007 (T)

O.A.No.5850 of 2002

Ignacimuthu

... Petitioner

Vs.

1. The Director of Elementary Education,
DPI Complex,
College Road,
Chennai - 600 006.

2. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.

3. The Deputy Commissioner (Education),
Corporation of Chennai,
Chennai - 600 003.

... Respondents

PRAYER: Writ Petition came to be numbered by transfer of O.A.No.5850 of 2002 on the file of the Tamil Nadu Administrative Tribunal seeking to direct the respondent to post the petitioner as Headmaster with immediate effect and give promotion from the date on which his promotion as Headmaster became due and give all service and monetary benefits from the said date.

For Petitioner : Mr.J.Saravana Vel

For R1 : Mr.K.V.Dhanapalan, AGP

For R2 & R3 : Mr.Karthika Ashok

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ORDER

The petitioner filed O.A.No.5850 of 2002 before the Tamil Nadu Administrative Tribunal seeking for a direction to the respondents to post him as Headmaster with immediate effect and give promotion from the date on which his promotion as Headmaster became due and give all service and monetary benefits from the said date. On abolition of the tribunal, the same was transferred to the file of this Court and re-numbered as W.P.No.11674 of 2007.

2. Heard the learned counsel appearing on either side.

3. The petitioner was initially appointed as Higher Grade Teacher on 10.02.1972 and thereafter, while he was working in the Panchayat Union School, Kanjankulam, he was promoted as Headmaster on 06.09.1974 and worked till 09.06.1975 at Kellakkottai Panchayat Union Elementary School. However, on transfer to Pandugudi Panchayat Union Elementary School, he was posted as Secondary Grade Teacher. In the year 1997, the petitioner sought transfer from Panchayat Union School to Corporation of Chennai from 01.08.1997, therefore, his date of joining in the Corporation School was taken into account only from 01.08.1997, not from 1972 as Secondary Grade Teacher. Hence, the only grievance of the petitioner is that he should have been considered as Elementary School Headmaster while joining in the Corporation of Chennai on 01.08.1997 as per G.O.Ms.No.202, Education Department, dated 24.09.2008, for, as per the said G.O., a teacher, who had been working as a Headmaster in a Panchayat Union Elementary School, on transfer to a different Panchayat Union, if posted as a Secondary Grader Teacher for want of vacancy in the post of Headmaster, his services would be considered in the post of Headmaster and pay scale will be fixed on par with the Headmaster of Elementary School.

4. Though the learned Additional Government Pleader appearing for the first respondent submitted that the petitioner is not entitled to get the benefit of G.O.Ms.No.202, dated 24.09.2008, as he, on his request, got a transfer to the School run by the Corporation of Chennai, this Court is not inclined to accept the said submission, as the above said issue is no more res-integra.

5. In a similar and identical circumstances, this Court, in the unreported judgment dated 06.08.2014, made in W.P.(MD)No.3117 of 2012, has considered the similar issue and it is relevant to extract paragraphs 6 and 7, which read as under:

"6.The issue, as I have already pointed out herein, is no more res integra. The question as

to whether to get the benefit of G.O.Ms.No.202, Education Department, dated 24.09.2008, an Elementary School Headmaster should have been transferred as Secondary Grade Teacher from one Panchayat Union to another Panchayat Union, this Court has consistently held that it is not necessary. Even if an individual, who was working as Headmaster in Panchayat Union Elementary School is transferred to a middle school run by Municipality as a secondary grade teacher, even then he will be entitled for the benefit of the said Government Order. In this regard, the learned counsel for the petitioner has relied upon a Division Bench judgment of this Court in M.Annamalai v. Secretary to Government, School Education Department, reported in (2014) 5 MLJ 513 and yet another unreported judgment in W.P.Nos.8780 to 8747 of 2013, dated 30.04.2014, wherein, this Court has taken such view. This only supports the view that I have taken. I do not find any justification in the stand taken by the 3rd respondent to make a distinction between the Headmaster transferred from one Panchayat Union Elementary School to another Panchayat Union Middle School as Secondary Grade Teacher and a teacher who was working as an Elementary School Headmaster in a Panchayat Union School and later on transferred to a Middle School run by a Municipality in the same District. I find absolutely no basis for such a differentiation. If any such differentiation is allowed, it will only amount to clear discrimination, offending Article 14 of the Constitution of India. In such view of the matter, the impugned order is liable to be set aside.

7. In the result, the writ petition is allowed and the impugned order, dated 30.03.2011, passed by the 3rd respondent is set aside. The 3rd respondent is directed to consider the proposal for revision of the pay scale and the pension of the petitioner's husband Mr.K.Kannan, by giving full effect to G.O.Ms.No.202, Education Department, dated 24.09.2008, to the case of the petitioner's husband Mr.K.Kannan and pay the revised pension and the arrears of salary and the pension. A consequential order, revising the pay scale and the pension and other monetary benefits shall be issued

by the 3rd respondent within a period of three months from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed."

6. In the case on hand, as stated above, it is not in dispute that the petitioner served as Elementary School Headmaster from 06.09.1974 to 09.06.1975 in Keelakottai Panchayat Union Elementary School and thereafter, he was posted as Secondary Grade Teacher in Pandugudi Panchayat Union Elementary School. Therefore, the petitioner is entitled to get the benefit of G.O.Ms.No.202, dated 24.09.2008, which says that a teacher, who was working as Elementary School Headmaster on or before 01.06.1988 and subsequently, transferred as Secondary Grade Teacher, will be treated as Elementary School Headmaster in the matter of pay scale. As mentioned above in the same paragraph, admittedly, the petitioner served as Elementary School Headmaster from 06.09.1974 to 09.06.1975 in Keelakottai Panchayat Union Elementary School, therefore, the objection of the respondent is hereby overruled.

7. In the light of the above factual aspect, coupled with G.O.Ms.No.202, dated 24.09.2008, and the unreported judgment dated 06.08.2014, made in W.P.(MD)No.3117 of 2012, I am of the view that the petitioner is entitled to the benefits of the above said Government Order. Accordingly, the respondents are directed to extend the benefits of the above said Government Order to the petitioner and pass orders granting the benefits, within a period of ten weeks from the date of receipt of a copy of this order. With the above direction, the writ petition stands allowed. No costs.

Sd/-
Assistant Registrar(CS III)

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सत्यमेव जयते
Sub Assistant Registrar

Rkm

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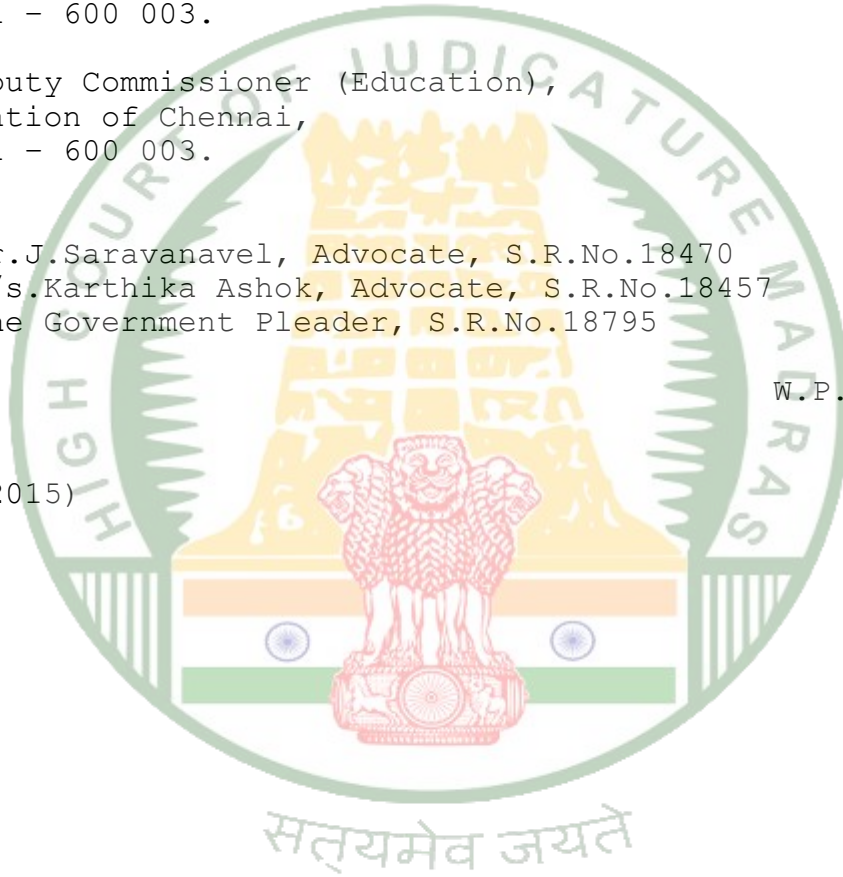
To

1. The Director of Elementary Education,
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2. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
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3. The Deputy Commissioner (Education),
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Chennai - 600 003.

+1cc to Mr.J.Saravanavel, Advocate, S.R.No.18470
+1cc to M/s.Karthika Ashok, Advocate, S.R.No.18457
+1cc to the Government Pleader, S.R.No.18795

W.P.No.11674 of 2007

MG (CO)
CA (26/05/2015)



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