

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE V.DHANAPALAN

AND

THE HONOURABLE MR.JUSTICE R.S.RAMANATHAN

W.P.Nos.8974, 9456, 9169, 7827, 7828, 8087, 7970, 7863, 7729, 8557,
8975, 8983, 1476, 10865, 6863 & 9553 of 2015 and
W.P.No.4401 of 2014

1. G.John Sargunadoss
2. B.Shanthi
3. P.Varadharajan
4. M.Alagesan
5. G.Rehiman Bee
6. K.Padmavathi
7. K.Elamaran
8. A.Maruthai
9. D.Arumugam
10. K.Parvathi
11. U.Irudayanathan
12. R.Rajendran
13. A.Maruthammal
14. N.Jamal Mohamed
15. V.Amaravathi
16. N.Rajamani
17. P.R.Manoharavalli
18. R.Rathinam
19. B.Kathiresan
20. V.Gandhimathy
21. D.Jelina Prema Kirubavathy
22. M.Julian Dhanaraj
23. M.Saroja
24. M.Maruthamuthu
25. T.Arumba
26. K.Gangachalam
27. A.Philomena
28. R.Kamala
29. P.Vaithilingam
30. A.Chinnappan
31. P.Davamanidevi
32. M.Krishnan
33. P.Gurusami

... Petitioners in W.P.No.8974 of 2015

1 M.Uthiriamary
2 K.Amali
3 M.Johnwilliam
4 R.Chandrakanthi
5 V.M.Chinnaswamy
6 S.Nagarajan
7 A.T.Mylsamy
8 V.K.Maruthamuthu
9 M.R.Henry Jeganathan
10 S.Rajammal
11 M.Palaniammal
12 K.Rukmani
13 S.Ramasubbu
14 T.Vasudevan
15 S.Padmanaban
16 R.Padmavathi
17 V.Santhanam
18 V.S.Lakshmikanthan
19 P.Palaniyammal
20 A.Manohar
21 M.E.Rabindranathi
22 P.Bhaguni
23 P.Kattithangam
24 S.Inbaraj
25 A.Peratchi
26 R.Ramani
27 P.V.S.Parvathy
28 V.Visalatchi
29 S.Rajammal

... Petitioners in W.P.No.9456 of 2015

1 J.Saral Rosline
2 T.Ragunathan
3 G.Mohanraj
4 P.Bagyalakshmi
5 A.Chinna Kutti
6 J.Jayaseelan
7 S.Kanchana
8 Rajammal

... Petitioners in W.P.No.9169 of 2015

1 T.Kanagarajan
2 P.Kuppusamy
3 M.Kaliyaperumal
4 V.Thiyagarajan
5 K.Ramakrishnan
6 R.Balasubramanian
7 S.Balaiyan
8 D.Sambala
9 V.Dharmarajan ..Petitioners in WP.No.7827/15.

1 M.Ghouse Hameed
2 K.Mahalingam
3 S.C.Maharajan
4 A.Sujanendran
5 P.M.Abdul Jaleel
6 A.Murugapadmanaban
7 R.Chidambarasubramanian
8 S.Sethu Perumal
9 P.Ratnasamy ..Petitioners in WP.No.7828/15.

S.Sadagopan ..Petitioner in WP.No.8087/15

P.Shanmuga Sundaram ..Petitioner in WP.No.7970/15.

Tamil Nadu Idainilai Asarinar
Sangam[Regn. No.102/2013],
rep. by its General Secretary,
K.Esakkiappan. ..Petitioner in WP.No.7863/15.

1. N.Ramakrishnan
2 P.Pushpavalli
3 A.Natesan
4 T.Palanivelu
5 N.Rajam
6 S.Jebamani Immanuel ..Petitioners in WP.No.7729/15.

K.Rajam ..Petitioner in WP.No.8557/15.

1 G.Shanmugam
2 V.Manonmani
3 M.S.Kasthuri
4 V.Ganesan
5 P.Kolandan
6 M.Kandasamy
7 Elanjiammal
8 M.J.S.Jayarakkini
9 E.Venkatachalam
10 M.Annapoorani
11 V.Jaganathan
12 A.Shanmugasundaram
13 R.Rusikesan
14 P.Rajamani
15 K.Rajaram
16 M.Sarojini
17 A.Sundaralakshmi
18 P.Saraswathi
19 M.Mahadeven
20 S.Shanmugam
21 Anandalakshmi

22 R.Uthami
23 S.Dhanabagyam
24 R.Uthami
25 E.Rajambal
26 V.Kanchana
27 D.Natarajan
28 R.Shanmugam
29 K.Indira
30 S.Regina Maria mazeraro
31 P.Emmiammal Hebsiba ..Petitioners in WP.No.8975/15.

1 K.B.Ramalingam
2 S.Venkatarathanam
3 K.Palanisamy
4 K.K.Dhandapani
5 C.Thilagaveni
6 S.Sulochanabai
7 P.Arockiasamy
8 V.Kamalam
9 N.Bagyalakshmi
10 R.Velammal
11 S.Jeyaleela
12 M.Vijayalakshmi
13 N.Annadurai
14 M.Pappukannu
15 N.D.Vimala
16 V.K.Somasundaram
17 R.Seethalakshmi
18 V.Ramamoorthy
19 P.Anbunathan
20 S.Janagi
21 S.Gnansambandam
22 K.Ramasamy
23 V.Hendry
24 A.Chandrasekaran
25 G.Ragavan
26 R.Thirugnanasambandam
27 M.Palanichamy
28 C.Muthupandi
29 P.Muthusamy
30 S.Charles Irudayasamy
31 M.manickam
32 V.Kamalaveni
33 C.Natarajan
34 N.Sheela Bagyavathy
35 G.Kalavathi
36 M.Shanmugasundaram
37 T.Manimegalai
38 J.Peter Louis

39 N.Periyasamy
40 D.Julie Deivasundari ..Petitioners in WP.No.8983/15.

A.Subramanian ..Petitioners in WP.No.1476/15.

1 G.Veerabalan
2 A.Banumathy
3 S.Mangalam
4 V.Sundarambal
5 S.Vasantha
6 A.Saroja
7 R.Manimegalai
8 V.Kannan
9 N.Gopalsamy
10 V.Kousalyadevi
11 S.Palanisamy
12 V.Kalpanadevi
13 S.Atonysamy
14 E.Sathya Sahaya Sundararaj
15 S.Saroja
16 M.Manonmani
17 R.T.Melchior
18 M.Rajendiran
19 D.Vishalatchi
20 K.Chandran
21 K.Vanaja
22 M.Kanchana
23 E.Buvaneswari
24 H.George Gnanapragasam
25 M.Christinal Amthabai
26 Vasantha R.
27 C.Subramani
28 R.Dhatchanamurthy
29 S.Meenatchi
30 S.Dhanalakshmi
31 Y.S.Arokiyasamy
32 A.Pechiammal
33 K.Kalithai
34 A.Savariyappan
35 Sanjeevi ..Petitioners in WP.10865/15.

T.Anthoniammal ..Petitioner in WP.6863/15.

1 P.Shanmugam
2 R.Radhakrishnan
3 M.Rathinavelu
4 M.Paciriya
5 A.Parthiban
6 R.Nandha Gopal

7 K.Pandurangan
8 M.Govindasamy
9 S.Kirubakaran
10 A.Chakravarthy
11 K.Pachaiyappan
12 V.Aranganathan

..Petitioners in WP.10865/15.

1 P.Shanmugam
2 R.Radhakrishnan
3 M.Rathinavelu
4 M.Paciriya
5 A.Parthiban
6 R.Nandha Gopal
7 K.Pandurangan
8 M.Govindasamy
9 S.Kirubakaran
10 A.Chakravarthy
11 K.Pachaiyappan
12 V.Aranganathan

..Petitioners in WP.9553/15.

1 M.SEENIVASAGAM
2 K.RATHINAM
3 R.KAMALAM
4 P.RAJENDRAN
5 T.NAGARAJ
6 S.ALAGUMALAI
7 A.KARUPPIAH
8 M.RAMASAMY
9 R.MEIGANAGURU
10 S.GANESAN
11 R.K.BALASUBRAMANIAN
12 V.KAMALAM
13 M.VELLAICHAMY
14 A.SUBBARAJ

..Petitioners in WP.4401/14.

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
School Education Department,
Fort St. George,
Chennai - 600 009.

..1st Respondent in WP.Nos.8974, 9456,
9169, 7827, 7828, 8087, 7970, 7863,
8557, 8975, 8983, 1476, 10865/15, 6863,
9553 of 2015 & 4401/14.
2nd Respondent in WP.No.7727/15.

2. The Director of School Education,
College Road, Nungambakkam,
Chennai 600 006. ..2nd Respondent in WP.Nos.8974, 9456,
9169, 7863, 8975, 8983, 1476, 10865,
9553, 6863/15.
..3rd respondent in WP.7729/15.
3. The Chief Educational Officer,
Saidapet, Chennai District...3rd Respondent in WP.8974/15,
5th Respondent in WP.10865/15.
4. The Chief Educational Officer,
Kancheepuram,
Kancheepuram District. ..4th Respondent in WP.8974/15,
4th Respondent in WP.10865/15
3rd Respondent in WP.9553/15.
5. The Chief Educational Officer,
Tiruvallur,
Tiruvallur District. ..5th Respondent in WP.8974/15,
4th Respondent in WP.8087/15, 7970/15.
6. The Chief Educational Officer,
Villupuram,
Villupuram District. ..3rd and 7th respondent in WP.10865/15
6th respondent in WP.8974/15,
4th respondent in WP.7729/15.
7. The Chief Educational Officer,
Perambalur, Perambalur District. ..7th respondent in WP.8974/15
8. The Chief Educational Officer,
Virudhunagar,
Virudhunagar District. ..8th respondent in WP.8974, 9456,
10865/15.
9. The Chief Educational Officer,
Cuddalore, Cuddalore District. ..9th Respondent in WP.8974/15
6th Respondent in WP.7729/15.
10. The Cheif Educational Officer,
Coimbatore, Coimbatore District...3rd Respondent in WP.9456/15,
4th respondent in WP.8983/15.
11. The Cheif Educational Officer,
Tiruppur, Tiruppur District. ..3rd respondent in WP.8983/15
4th respondent in WP.9456/15
8th respondent in WP.10865/15.

12. The Chief Educational Officer,
Krishnagiri, Krishnagiri District. ..5th respondent in WP.9456/15
13. The chief Educational Officer,
Dindigul, Dindigul District. ..5th respondent in WP.8983/15
6th respondent in WP.9456/15
15th respondent in WP.10865/15.
14. The chief Educational Officer,
Theni, Theni District. ..7th respondent in WP.9456/15.
15. The chief Educational Officer,
Thirunelveli. Thirunelveli District...9th Respondent in WP.9456/15
4th respondent in WP.9169/15
3rd respondent in WP.7828/15.
16. The chief Educational Officer,
Vellore District, Vellore. ...3rd respondent in WP.9169/15
14th respondent in WP.10865/15
17. The chief Educational Officer,
Thiruvannamalai,
Thiruvannamalai District. ...3rd respondent in WP.1476/15
4th respondent in WP.9553/15.
18. The chief Educational Officer,
Kancheepuram,
Kancheepuram District. ...4th respondent in WP.10865/15.
19. The District Elementary Officer,
Thiruvallur District,
Thiruvallur. ...5th Respondent in WP.No.9169/15
20. The Chief Educational Officer,
Dharmapuri,
Dharmapuri District. ...12th Respondent in WP.No.10865/15.
21. The District Elementary Educational Officer,
Kancheepuram,
Kancheepuram District. ...5th Respondent in WP.No.9553/15.
22. The District Elementary Educational Officer,
Thiruvannamalai District,
Thiruvannamalai. ...6th respondent in WP.No.9169/15
9553/15.
23. The Chief Educational Officer,
Madurai. ...2nd respondent in WP.No.4401/14.

24. Chief Educational Officer,
Nagapattinam District. ..2nd respondent in WP.7827/15
4th respondent in WP.7828/15
10th respondent in WP.10865/15
25. The District Educational Officer,
Usilampatty, Madurai. ...3rd respondent in WP.4401/14.
26. The Chief Educational Officer,
Tuticorin District. ...2nd Respondent in WP.7828/15
6th respondent in WP.8975/15.
27. The State of Tamil Nadu,
rep. by its Secretary,
Finance [P.1] Department,
Fort St. George, Chennai 9. ...2nd Respondent in WP.8087/15,
7970/15, 8557/15.
...1st Respondent in WP.7729/15.
28. The Director of School Education,
[Higher Secondary], College Road,
DPI Compound, Chennai 600 006. ...3rd Respondent in WP.8087/15
7970/15.
2nd respondent in WP.6863/15.
29. The Chief Educational Officer,
Thanjavur Post, Thanjavur. ...3rd respondent in WP.6863/15
...5th respondent in WP.7729/15
...6th respondent in WP.8983/15,
10865/15.
30. The Commissioner of Chennai Corporation,
Chennai Corporation Building,
Chennai 600 003. ...3rd respondent in WP.8557/15.
31. The Deputy Commissioner of Chennai Corporation
Education Department,
Chennai Corporation Building,
Chennai 600 003. ...4th respondent in WP.8557/15.
32. The Educational Officer,
Chennai Corporation Building,
Chennai 600 003. ...5th respondent in WP.8557/15.
33. The Chief Educational Officer,
Namakkal, Namakkal District. ...3rd respondent in WP.8975/15
...4th respondent in WP.10865/15.

34. The Chief Educational Officer,
Erode, Erode District. ..4th respondent in WP.8975/15.
13th respondent in WP.10865/15.
35. The Chief Educational Officer,
Salem, Salem District. ..5th respondent in WP.8975/15.
36. The Chief Educational Officer,
Karur District, Karur. ..7th respondent in WP.8983/15.
37. The District Welfare Officer,
Chennai-1, Chennai District. ..17th respondent in WP.10865/15.

PRAYER:

WP.Nos.8974, 7827/15, 7828/15:

Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus for a direction to the respondents to extend the benefit of G.O.Ms.No.216, Finance (PC) Department, dated 22.03.1993 in the light of the orders of the Hon'ble Division Bench in W.P.No.8747 of 2009, dated 14.07.2009 confirmed by the Hon'ble Supreme Court of India in C.C.No.2746/2010, dated 23.04.2010 and accordingly award selection/special Grade Scale of Pay with effect from 01.06.1988 and revision of pensionary benefits and pay arrears immediately to the petitioners.

WP.No.9456/15, 8983/15, 10865/15: Petitions praying to issue a writ of mandamus or any other writ or direction in the nature of writ directing respondents to extend the benefit of G.O.Ms.No.216, Finance (PC) Department, dated 22.03.1993 in the light of the orders of the Hon'ble Division Bench in W.P.No.8747 of 2009, dated 14.07.2009 confirmed by the Hon'ble Supreme Court of India in C.C.No.2746/2010, dated 23.04.2010 and accordingly award selection/special Grade Scale of Pay with effect from 01.06.1988 and revision of pensionary benefits and pay arrears immediately to the petitioners.

WP.No.8087/15, 7970/15, 8557/15, 8975/15: Petitions praying to issue Writ of Mandamus to direct the respondents to extend the benefit of G.O.Ms.No.216, Finance (PC) Department, dated 22.03.1993 in the light of the orders of the Hon'ble Division Bench in W.P.No.8747 of 2009, dated 14.07.2009 confirmed by the Hon'ble Supreme Court of India in C.C.No.2746/2010, dated 23.04.2010 and accordingly award selection/special Grade Scale of Pay with effect from 01.06.1988 and revision of pensionary benefits and pay arrears.

WP.9169/15:

Petition praying to issue a Writ of Mandamus or any other writ or order or direction in the nature of writ, directing the respondents to extend the benefit of G.O. Ms. No.216, Finance (PC) Department, dated 22.03.1993 in the light of the orders of the Hon'ble Division Bench in W.P.No.8747 of 2009, dated 14.07.2009 confirmed by the Hon'ble Supreme Court of India in

C.C.No.2680/2013, dated 28.01.2013 and accordingly award selection/special Grade Scale of Pay with effect from 01.06.1988 and revision of pensionary benefits and pay arrears.

WP.7863 of 2015:

Petition praying to issue a Writ of Mandamus directing the respondents to extend the benefits of G.O.Ms.No.216 Finance [P.1] Department dated 22.03.1993 as implemented in G.O.Ms.No.258 School Education Department dated 06.09.2010 and G.O.Ms.No.284 School Education Department dated 30.09.2010etc. to the petitioner by granting Selection/Special Grade of pay applicable to the post of primary School Headmaster by counting the length of services rendered in the post of Secondary Grade Teacher, within a time frame to be fixed by this Court.

WP.No.7729/15: Petition praying to issue a Writ of Mandamus directing the respondents to extend the benefit of G.O.Ms.No.216 Finance [Pay cell] Department, dated 22.3.93.

WP.No.1476/2015, 9553/15: Petitions praying to issue a Writ of Mandamus directing the respondents to extend the benefit of G.O.Ms.No.216, Finance [PC] Department dated 22.3.1993 and G.O.Ms.No.270, Finance [PC] Department dated 26.08.2010 in the light of the orders of the Hon'ble Division Benchin WP.No.8747 of 2009 dated 14.07.2009 confirmed by the Honourable supreme Court of India in CC.No.2746/2010 dated 23.04.2010 and accordingly award Selection / Special Grade scale of pay with effect from 1.6.1988 and revision of pensionary benefits and pay arrears immediately to the petitioners.

WP.6863 of 2015: Petition praying to issue a Writ of Mandamus directing the respondents herein to extend the benefit of G.O.Ms.No.216, Finance [PC] Department dated 22.03.1993 and GO.Ms.No.258 School Education [M.1] Department dated 6.9.2010 in the light of the orders of the Division bench of this Court in WP.No.8747/2009 dated 14.07.2009 which was confirmed by the Honourable Supreme Court of India in Special Leave to Appeal [Civil] .../2010 CC.No.2746/2010 and accordingly award Selection / special Grade Scale of pay with effect from 01.06.1988 and revise the family pension benefits and pay the arrears to the petitioner, within a time frame.

WP.No.4401/2014:

Petition praying to issue a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 09.01.2014 with respect to extend the benefit of G.O.Ms.No.216 Finance [PC] Department dated 22.03.1993 in light of the Honourable Supreme Court of India's Order in CC.No.2746/2010 dated 23.04.2010 and accordingly award selection/special Grade scale of pay with effect from 01.06.1988 and revise the family pension benefits and pay the arrears to the petitioner.

For Petitioners in	
W.P.Nos.8974, 9456, 8975, 8983 & 10865 of 2015	Mr.R.Viduthalai, Senior Counsel for Mr.V.Thirupathi
W.P.No.9169 of 2015	Mr.A.Rajendiran
W.P.Nos.7827, 7828 of 2015 & W.P.No.4401 of 2014	Mr.R.Sreedharan
W.P.Nos.8087, 7970 & 8557 of 2015	Mr.K.R.Gunashekar
W.P.No.7863 of 2015	Mr.G.Sankaran
W.P.No.7729 of 2015	Mr.R.Singaravelan, for Ms.M.Srividhya
W.P.Nos.1476 & 9553 of 2015	Mr.G.Punniyakotti
W.P.No.6863 of 2015	M/s.G.Bala and Daisy
vs.	
For Respondents in all Writ Petitions	Mr.AL.Somayaji, Advocate General, assisted by Mr.R.Rajeswaran, Special Govt. Pleader for Mr.D.Krishnakumar, Special Govt. Pleader assisted by Mr.K.Karthikeyan, Government Advocate

C O M M O N O R D E R

(Order of the Court was made by V.Dhanapalan,J.)

Heard the respective learned Senior Counsel/learned counsel appearing for the writ petitioners and Mr.AL.Somayaji, learned Advocate General assisted by Mr.R.Rajeswaran, learned Special Government Pleader for Mr.D.Krishnakumar, learned Special Government Pleader and Mr.K.Karthikeyan, learned Government Advocate appearing for the respondents-State.

2. All these Writ Petitions arise out of the benefits granted under the Government Order in G.O.Ms.No.216, Finance (PC) Department, dated 22.03.1993, which has been earlier dealt with by this Court in a batch of Writ Appeals and Writ Petitions in W.A.No.352 of 2014, etc. batch and by a judgment dated 04.02.2015, this Court disposed of

the said batch of cases.

3. The claim of the writ petitioners is for extension of benefits to the similarly placed persons as per the said G.O.Ms.No.216 and in some cases, the writ petitioners have also challenged the consequential orders of the Government in G.O.Ms.No.69, School Education (M1) Department, dated 18.04.2013 and G.O.Ms.No.270, Finance (PC) Department, dated 26.08.2010, and in some cases, the rejection letters of the Government have also been challenged and accordingly, all the writ petitioners have sought for extension of benefits in the light of the orders passed by this Court, which was confirmed by the Supreme Court and prayed that the benefits as arising out of the Government's scheme as ordered in G.O.Ms.No.216, could be extended to the present batch of writ petitioners also. This Court has, in the said batch of Writ Appeals/Writ Petitions, granted the benefits as observed therein, leaving it open for the State to take a decision in accordance with law, as to the period of entitlement with regard to the claim of arrears for the period taken by the individuals in the matters in making a belated approach. Therefore, the question that arose for consideration as to the extension of the scheme of the Government to the present writ petitioners, is no longer res-integra, in view of the decision rendered by this Court in the said batch of cases on 04.02.2015. Accordingly, we dispose of the present batch of Writ Petitions also, as observed by this Court in the said batch of cases in W.A.No.352 of 2014, etc. batch, by judgment dated 04.02.2015, relevant portion of which reads as follows:

"14. We have gone through the voluminous records available with the case bundles.

15. The whole controversy in these cases revolves around G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993. The said G.O.reads as under :

"GOVERNMENT OF TAMIL NADU ABSTRACT

Tamil Nadu Revised scales of Pay Rules, 1989-
Selection/Special Grades in the revised pay scales-
executive instructions-issued.

FINANCE (PAY CELL) DEPARTMENT

G.O.Ms.No.216 Dated 22.3.1993.
Aangeerasa, Panguni 9,
Thiruvalluvar Aandu, 2024.

Read :

1. G.O.Ms.No.666, Finance (PC) Department,
dated 27.6.89.
2. G.O.Ms.No.304, Finance (PC) Department,
dated 28.3.90.

3. Govt.Finance Department,
letter No.10181/PC-II/91-91 dated 20.2.91.
4. From the Directions of the Tamil Nadu
Administrative Tribunal in O.A.No.1625 of 91 and
order dated 13.11.93.
- 5.G.O.Ms.No.215, Finance(PC) Department, dated 2.3.93.

ORDER :

In the Government Order second read above, Orders are issued reintroducing Selection Grade and Special Grade in the improved scales of pay. It has also been ordered that the Selection Grade should be restricted to the promotion post scale of pay. Accordingly, the Selection Grade Scale of pay for Office Assistants has been restricted to Rs.775-1039, the pay scale of their promotion post viz., Record Clerk.

2. In its judgment delivered, the Tamil Nadu Administrative Tribunal in O.A.No.1625 of 92 filed by Tamilnadu Government Office Assistants and Basic Servants Association, has observed that the post of Record Clerk is not an avenue of promotion for Office Assistants for the reason that only persons with the prescribed qualification are appointed by transfer to the post of Record Clerk. Hence, the Tribunal has ordered that the proviso to para 4 of the G.O.Ms.No.304, Finance (PC) Department dated 28.3.90 will not be applicable to Office Assistants. The Tribunal has also pointed out the special dispensation shown to the Teachers in the matter of Selection Grade. The Tribunal has therefore set aside the entire para 4 of the Government Order second read above and ordered that, it is open to Government to issue orders afresh by suitably incorporating the basis that Selection Grade for a post cannot be higher than that of the promotion post so as not to leave room for any ambiguity and to provide for special cases when appointment to higher post in the hierarchy in the department is not by promotion but by transfer. Accordingly, orders were issued in the Government Order fifth read above.

3. The above directions of the Tribunal has been examined by the Government and it has been decided to issue the following orders to protect certain

special categories in the matter of awarding Selection Grade.

(i) Government accept the direction of the Tribunal that the post of Record Clerk is not a regular promotion post for the Office Assistants for the reasons that only persons with the prescribed qualification are appointed to the post of Record Clerk by transfer. Accordingly, Government direct that the proviso to para 4 of the G.O. Second read above as modified in G.O. fifth read above shall not be applicable to the post of Office Assistant and they shall be allowed Selection / Special Grades as in Annexure-I to the G.O. second read above.

(ii) In respect of Secondary Grade Teachers in High Schools there is no promotion post for them as on 28.3.90 (i.e. the date of issue of the G.O. Second read above), although there is promotion post in Primary Schools. As a measure of uniformity in respect of all Secondary Grade Teachers, Government direct that the Teachers be made eligible for Selection / Special grades as in Annexure-I to the G.O. second read above.

(By order of the Government)

N.NARAYANAN,
SECRETARY TO GOVERNMENT"

16. This Court has dealt with the issues connected to the above G.O. on many an occasion. That being the position, the order of a Division Bench of this Court in W.P.No.8747 of 2009, dated 14.07.2009, is much relevant. Therefore, we feel it necessary to extract the entire order of the said Division Bench, for disposal of this huge batch of cases. The said order goes thus :

"The petitioners have filed the writ petition for the issuance of a writ of certiorari to call for the records relating to O.A.No.8276 of 1997 dated 07.10.1998 on the file of Tamil Nadu Administrative Tribunal and to quash the same.

2. The 1st respondent herein was appointed as Higher Grade Teacher in the Board Primary School in the year 1955 and he worked as Primary School Headmaster in Board Primary School, Annur and thereafter, he was transferred to Board High School, Unjalur, in the year 1959 and from 1967 onwards he worked as Secondary Grade Teacher in Government High Schools. Lastly, he worked as Secondary Grade Teacher in Government Higher Secondary School, Kundadam, Erode District. He was awarded Selection

Grade in the post of Secondary Grade Teacher with effect from 01.07.1974 and he was given Special Grade in the post of Secondary Grade Teacher on 01.06.1981.

3. As far as the Secondary Grade Teachers working in High/Higher Secondary Schools are concerned, there is no promotional opportunity and they served only as Secondary Grade Teacher throughout their service. The Government, while re-introducing Selection Grade / Special Grade with improved scale of pay as per G.O.Ms.No.304, Finance (Pay Commission) Department, dated 28.03.1990, have directed that the Selection Grade / Special Grade pay shall be restricted to the scale of pay prescribed for the promotion post. In order to remove certain ambiguity in awarding Selection Grade/ Special Grade pay in respect of the posts for which there is no promotional opportunity, the Government have issued G.O.Ms.No.215, Finance (Pay Commission) Department, dated 22.03.1993 introducing uniform scale of pay for all the Secondary Grade Teachers and as per Annexure-1, the Ordinary Grade, Selection Grade and Special Grade scales of pay are fixed at Rs.1400-2600, 1640-2900 and 2000-3200 respectively, based on which, the 1st respondent claims entitlement for those scales of Selection Grade and Special Grade.

4. According to the petitioners herein, the 1st respondent's pay was fixed at Rs.1640-60-2600-75-2900 in terms of the orders issued in G.O.Ms.No.215, Finance (Pay Commission) Department, dated 22.03.1993 and the pension was also fixed accordingly. But the 1st respondent approached the Tribunal by filing O.A.No.8276 of 1997 seeking a direction to refix his scale of pay at Rs.2000-60-2300-75-3200 prescribed for the post of Primary School Headmaster (Special Grade) and pay arrears and consequential benefits on such refixation with effect from 01.06.1988.

5. Before the Tribunal, the applicant/ 1st respondent herein has pleaded that teachers, who are in the same grade and are doing similar work, were given the scale of pay of Rs. 2000-3200, whereas, the applicant was paid only Rs.1640-2900. The applicant also relied on the earlier decision of the Tribunal dated 08.05.1996 in O.A.Nos.1113 to 1133 of 1995, wherein the Tribunal pointed out that the

Government extended the Selection/Special Grade Pay scales to the applicants like Secondary Grade Assistant Teachers appointed in the High School and having more than 10 to 20 years of service and also issued G.O.Ms.No.216, Finance (Pay Commission) Department, dated 22.03.1993 extending the benefits awarded in the aforesaid G.O. to the applicants therein and pay was directed to be refixed in terms of the said G.O.

6. The Tribunal, on consideration of the aforesaid facts and circumstances of the case, allowed the original application with a direction to the respondents therein to refix the scale of pay of the applicant as Rs.2000-3200 with effect from 01.06.1988 in terms of G.O.Ms.No.216, Finance (PC) Department, dated 22.03.1993 and further directed that all the pay arrears are to be disbursed within a period of three months from the date of receipt of that order.

7. Aggrieved of the said order of the Tribunal, the petitioners have filed the present writ petition with the aforesaid prayer.

8. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the 1st respondent.

9. The learned Special Government Pleader appearing for the petitioners submitted that in view of the judgment of the Supreme Court dated 29.10.1998 made in C.A.No.4582 of 1992, the 1st respondent herein, who worked as Secondary Grade Teacher in High School and belonged to Secondary Educational Service, cannot draw any analogy with the Secondary Grade Teachers working in Primary Schools coming under different service for the purpose of claiming pay fixation. It is also submitted that the 1st respondent is not having any right whatsoever to claim pay fixation on par with the Secondary Grade Teachers working in Primary Schools and got promotion as Primary School Headmaster merely on the ground that such promotional opportunity is not available for the Secondary Grade Teachers working in High Schools and belong to Secondary Educational Service. It is further submitted that to be eligible for Selection / Special Grade, the 1st respondent has to serve in the same post for a period of 10 years / 20

years respectively and in the instant case, the 1st respondent never completed 10 years / 20 years of service in the post of Primary Headmaster to be eligible for Selection Grade / Special Grade. In view of the aforesaid reasons, the learned Special Government Pleader submitted that the order passed by the Tribunal is liable to be set aside.

10. The learned counsel appearing for the 1st respondent submitted that against the common order passed by the Tribunal in O.A.Nos.7908 and 8276 of 1997, dated 07.10.1998, a review petition was filed before the Tribunal in R.A.No.182 of 2002 and the same was dismissed on 05.12.2002, against which, a writ petition, W.P.No.17187 of 2003, was filed before a Division Bench of this Court, in which, Justice Eliphe Dharma Rao was a party and the writ petition was dismissed by order dated 28.11.2007, holding that when the review petition is dismissed, the said order merges with the order passed in O.A.No.8276 of 2007 and hence, the writ petition filed against the review petition is not maintainable. According to the learned counsel for the 1st respondent, thereafter, a contempt application in C.A.No.170 of 2009 was filed for implementation of the order of the Tribunal and notice was ordered to the respondents on 13.04.2009. According to the learned counsel for the 1st respondent, though the limitation starts from the date of dismissal of the original application, viz., 07.10.1998, the Government, after a period of 11 years, filed the present writ petition and obtained an order of interim stay on 30.04.2009. The learned counsel for the respondent vehemently contended that the writ petition is liable to be dismissed on the ground of inordinate and unexplained delay.

11. We have perused the entire materials placed on record. When the Tribunal has passed an order, which is impugned in the writ petition, based on its earlier judgment dated 08.05.1996 in O.A.Nos.1113 to 1133 of 1995, the Officer, who has taken a decision to file the present writ petition, should have considered that there is no point in filing the present writ petition against a covered matter. By taking such a decision to file a writ petition against the order passed by the Tribunal following its own earlier judgment, which has become final, the Officer has driven the 1st respondent to Court and to engage a counsel more so, after the date of

his retirement, i.e., 31.08.1993.

12. In similar circumstances, a Division Bench of this Court, in a judgment reported in Secretary to Government, Health Department, Government of Tamil Nadu, Chennai and others -vs- Dr.P.A.Adalarasu and others {(2006) 1 M.L.J. 696}, dismissed the said petition, which was filed after expiry of four years, with an observation that even though there is no period for filing writ petition is specified, it is well settled in law, that such a writ petition is required to be filed as expeditiously as possible without discernible delay, laches or acquiescence.

13. In the instant case, the writ petition has been filed after expiry of 11 years. As submitted earlier, a retired school teacher was driven to approach the Tribunal by filing the original application for extension of benefits granted under G.O.Ms.No.216, Finance (PC) Department, dated 22.03.1993 in his favour and after obtaining the order from the Tribunal, the respondents therein filed a review petition. After the dismissal of the review petition, they have again driven the 1st respondent to file a contempt petition for implementation of the order passed by the Tribunal in O.A.No.8276 of 1997. But on receiving notice in the said contempt petition, the respondents therein have chosen to file the present writ petition and obtained an order of interim stay of operation of the order of the Tribunal and thereby causing great prejudice to the applicant/1st respondent herein and further depriving him to have the fruits of the order passed by the Tribunal as early as in 1998.

14. In such circumstances, the Hon'ble Supreme Court has observed that while the right to move the Supreme Court under Article 32 of the Constitution of India is itself a fundamental right, the right to move the High Court under Article 226 of the Constitution of India is one calling for the exercise of discretionary power. Bearing this in mind, if we look into the law laid down by the Hon'ble Supreme Court, while construing limitation for filing a Writ Petition, reported in C.Bhushan -Vs- Dy. Director, Consolidation, U.P. (AIR 1967 SC 1272) it has been held that ordinarily in the absence of a specific Statutory Rule, the High Court may not be justified in rejecting a petition for a

Writ of Certiorari against the Judgment of a Tribunal, if on a consideration of all the circumstances it appears that there is an undue delay. In the said case, the Hon'ble Supreme Court was considering the validity of an order passed by the Allahabad High Court which has consistently laid down a practice that the period of ninety days, which is the period fixed for appeal to the High Court from the Judgment of the Lower Court, should be taken as a period for an Application for issue of Writ of Certiorari and time can be extended only when circumstances of special nature, which are sufficient in the opinion of the Court, are shown to exist. While construing the decision of the Allahabad High Court, the Hon'ble Supreme Court observed that in the absence of Statutory Rule, the period prescribed for preferring an appeal to the High Court is a rough measure and in each case, the primary question is whether the applicant has been guilty of laches or undue delay. On the facts of the case, the Hon'ble Supreme Court interfered in the matter.

15. In yet another case reported in Kamini Kumar -vs- State of West Bengal (AIR 1972 Supreme Court 2060), with regard to the matter pertaining to the dismissal of a public servant, the Hon'ble Supreme Court held that if a public servant wants to invoke the extraordinary remedies available under Article 226, he should come to Court at the earliest reasonably possible opportunity and every case depends upon its own facts.

16. The Hon'ble Supreme Court also, while construing the power of the Appellate Tribunals and Revisional Authorities, where no specific time limit was prescribed for preferring the appeal or revision, held that such right should be exercised within a reasonable time.

17. Therefore, the law, which emanates from these judgments referred above, postulates that in the absence of any specific limitation for exercise of the power under Article 226 of the Constitution of India, the same has to be exercised within a reasonable time, which is a question of fact in each case and depending upon the facts and circumstances and nature of order.

18. From the dates in the instant case as given above, it is to be seen that the delay is gross and unexplained. As we have already held that in such matters, especially when Writ Petitions are filed against orders of the Tribunals, the same has to be done within a reasonable time, which in our opinion could be safely held as one year.

19. In view of the inconvenience caused to the 1st respondent by the petitioners and also in view of the fact that instead of filing the writ petition as expeditiously as possible, at least, within a reasonable time of one year from the date of the impugned order passed by the Tribunal, we consider it appropriate to hold that the writ petition is liable to be dismissed either by imposing costs or compensation of Rs.10,000/- on the petitioners with a further caution to them that not to resort to this type of action of filing writ petition with abnormal delay by overburdening the Court. Moreover, on merits also, the writ petition has no legs to stand, as the learned Special Government Pleader strongly relied on ground No.(6), i.e., for extending the benefit of Selection / Special Grade, the 1st respondent has to serve in the same post for a period of 10 years / 20 years, which is not contemplated in G.O.Ms.No.216, Finance (PC) Department, dated 22.03.1993 and therefore, the said contention is irrelevant.

20. In view of the discussion made above, the writ petition is dismissed with costs of Rs.10,000/- to be payable by the petitioners and six weeks time is granted to pay cost and to comply with the order passed by the Tribunal in O.A.No.8276 of 1997 dated 07.10.1998. Connected M.P. is closed."

17. In the above context, it is also significant to mention that the above order of the Division Bench of this Court was upheld by the Supreme Court in a Special Leave Petition in C.C.No.2746 of 2010, by an order dated 23.04.2010.

18. The Government of Tamil Nadu had arrived at a policy decision to reintroduce Selection Grade and Special Grade in the improved scales of pay in G.O.Ms.No.304, Finance (PC) Department, dated 28.03.1990, wherein it was ordered that Selection Grade

should be restricted to the promotion post. Accordingly, Selection Grade scale of pay for Office Assistants and the pay scale of their promotion posts namely Record Clerk had been determined. However, the matter had gone to the Tamil Nadu Administrative Tribunal, as it then was, and, on consideration, the Tribunal observed that the post of Record Clerk is not an avenue of promotion for Office Assistants for the reason that only persons with the prescribed qualification are appointed by transfer to the post of Record Clerk. Therefore, the Tribunal ordered that the proviso to para 4 of the G.O.Ms.No.304, Finance (PC) Department dated 28.3.90 will not be applicable to Office Assistants. The Tribunal also pointed out the special dispensation shown to the Teachers in the matter of Selection Grade and set aside the entire para 4 of the Government Order as stated above and ordered that it was open to Government to issue orders afresh by suitably incorporating the basis that Selection Grade for a post cannot be higher than that of the promotion post so as not to leave room for any ambiguity and to provide for special cases when appointment to higher post in the hierarchy in the department is not by promotion but by transfer. In Clause 3 (ii) of G.O.Ms.No.216, it has been stated that in respect of Secondary Grade Teachers in High Schools, there is no promotion post for them as on 28.3.90 (i.e. the date of issue of the G.O. second read above), although there is promotion post in Primary Schools and as a measure of uniformity in respect of all Secondary Grade Teachers, Government direct that the Teachers be made eligible for Selection / Special grades as in Annexure-I to the G.O. second read above, which is G.O.Ms.No.304. In that context, some of the teachers moved the Tribunal by way of O.As. in O.A.Nos.7908 and 8276 of 1997, wherein the Tribunal passed the following order :

"Applicants are Special Grade Secondary Teachers. In G.O.Ms.No.304, Finance (P.C.) Department dated 28.3.90, paragraph 4 stipulates that wherever the promotion post happens to be on a lower scale of pay than the selection grade scale of pay given in Annexure-I employees in such posts are eligible for the selection grades scales as applicable to promotion post only. However, in respect of teachers the selection grade scale and special grade shall be as indicated in the Annexure I to the said order. Subsequently, in G.O.Ms.No.215, Finance (Pay Cell) Department dated 22.3.93 executive instructions regarding selection grade/special grade in the revised pay scales have been issued. Paragraph 3 (ii) of this

Government Order stipulates that in respect of Secondary Grade Teachers in High Schools there is no promotion post for them as on 28.3.90 ie., when G.O.Ms.No.304 dated 20.3.90 was issued, although there is promotion post in primary schools. As a measure of uniformity in respect of all Secondary Grade Teachers, Government direct that the Teachers be made eligible for Selection/Special Grade as in Annexure I to the said G.O.Ms.No.304, dated 28.3.90. In the annexure 1 to the said G.O.Ms.No.304, the ordinary Grade, Selection Grade and the Special Grade scales of pay are Rs.1400-2600,1640-2900 and 2000-3200 respectively. So, the present applicants are entitled for these scales of selection grade and special grade. On the basis of G.O.Ms.No.216, Finance (PC) Department dated 22.3.93, applicants seek refixation of their pay as Rs.2000-3200 with effect from 1.6.1988.

2. Applicants plead that teachers who are in the same grade and are doing similar work were given the scale of pay of Rs.2000-3200. Whereas the applicants are paid only Rs.1640-2900. Learned Counsel for the applicants also draws our attention to an earlier decision of this Tribunal dated 8.5.96 in O.A.Nos.1113 to 1133/95. There, this Tribunal pointed out that the Government extended the Selection/Special Grade pay scales to the applicants like Secondary Grade Assistant Teachers appointed in the High School and having more than 10 to 20 years of service and issued G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.3.93 and the benefits awarded in G.O.Ms.No.216, Finance (PC) Department dated 22.3.93 were extended to those applicants and pay was directed to be fixed in terms of the said G.O. While so, we find no reason for not conceding the claim of the applicants.

3. In the result, both the applications are allowed and the respondents are directed to refix the scale of pay of the applicants as Rs.2000-3200 with effect from 1.6.1988 in terms of G.O.Ms.No.216, Finance (PC) Department dated 22.3.93. All the pay arrears are to be disbursed within a period of three months from the date of receipt of a copy of this order."

Aggrieved over the said order of the Tribunal, the State filed W.P.No.8747 of 2009, which was dismissed by the Division Bench, as extracted above.

19. The learned single Judge, in the order impugned, has held that the order in O.A.No.8276 of 1997, which in turn, was confirmed by the Apex Court on 23.04.2010 in S.L.P.(CC) No.2746 of 2010 is binding between the parties and the State is bound to implement the order and that the Government issued G.O.Ms.No.258, School Education Department, dated 04.09.2010 implementing the order of the Tribunal in O.A.No.8276 of 1997 after it lost before the Apex Court and also that the other orders passed by this Court following the judgment in W.P.No.9747 of 2009 is binding between the parties to those orders. The learned single Judge further held that the same cannot be relied on by the petitioners to claim, as a matter of right, the Selection Grade/Special Grade pay of Primary School Headmaster, particularly, in view of the judgment of the Apex Court in Director of School Education in A.N.Kandaswamy and Another reported in (1998) 8 SCC 26 and the judgment of the Division Bench of this Court in Director of School Education and Another v. R.S.Srinivasan and another, reported in 2004 WLR 526.

20. When a policy has been taken by the Government to extend certain benefits, the same has to be extended to the eligible persons as per the scheme. Such extension of benefits may be by automatic process by the Government itself or at times in deserving cases, the beneficiaries also may approach this Court and seek for the relief.

21. While implementing the orders of the Court, perhaps for the applicants before the Court or those not before the Court, the benefits may be extended by the State itself. Till the decision is arrived at by the forum concerned, some of the left out beneficiaries may wait and approach the Court belatedly and in such cases the consequences will be the payment of arrears and the interest thereon, which is a matter for serious concern. In that event, waiving the benefits to the parties and the delay attributed to that effect may not be proper for any Government. Normally, the benefits of the scheme could be extended to the eligible persons. Therefore, we are of the considered opinion that mere laches on the part of the petitioners would not deprive the benefits as per the scheme. At the same time, we are also concerned with the State exchequer in payment of arrears.

22. In this context, we feel it appropriate to refer to a recent decision of the Supreme Court in State of Uttar Pradesh and Others v. Arvind Kumar Srivastava and Others, (2015) 1 SCC 347, wherein, the Apex Court dealt with the issue as to the entitlement of benefit of judgment in rem

with an intention to benefit all similarly situated persons irrespective of whether they had approached the court or not. It is held therein that when a particular set of employees is given relief by court, all other identically situated persons should be treated alike by extending the same benefit, since not doing so would amount to discrimination and be violative of Article 14 of the Constitution of India.

23. It is true, implementation of the Government Order in question to the teachers/individuals will cause enormous burden to the State exchequer and it is, certainly, a matter for concern. However, the views taken by the earlier Benches of this Court for extending the benefit to the employees therein are equally applicable to these cases in hand, as these individuals also are similarly placed to those in the earlier litigations. But, the only point to be considered in these cases is, the individuals have approached the Court belatedly, which delay, according to them, was due to the pendency of the decision in those matters. However, as regards the claim of arrears for the period taken by the individuals in these matters in making a belated approach, we are not inclined to pass any orders. Therefore, we leave it open to the State to take a decision as to the period of entitlement with regard to the said issue in accordance with law.

24. Subject to the above observation, following the Division Bench decision of this Court in W.P.No.8747 of 2009, dated 14.07.2009, and also the subsequent decision of the Supreme Court in Special Leave Petition in C.C.No.2746 of 2010, dated 23.04.2010, these Writ Appeals and Writ Petitions are allowed to the extent indicated. No costs. Consequently, the connected M.Ps. are closed."

4. In the light of the above observations of this Court in the said batch of cases, all the present Writ Petitions are also disposed of as they are similar in nature and as the decision rendered by this Court in the said batch of cases is covered in the present batch of cases, we allow the present batch of Writ Petitions on similar lines with similar observations and directions to the extent indicated therein. No costs. Consequently, connected pending Miscellaneous Petitions are closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

aeb

To :

1. The Secretary to Government
State of Tamil Nadu,
School Education Department,
Fort St. George,
Chennai - 600 009.
2. The Director of School Education,
College Road, Nungambakkam,
Chennai 600 006.
3. The Chief Educational Officer,
Saidapet, Chennai District.
4. The Chief Educational Officer,
Kancheepuram, Kancheepuram District.
5. The Chief Educational Officer,
Tiruvallur, Tiruvallur District.
6. The Chief Educational Officer,
Villupuram, Villupuram District.
7. The Chief Educational Officer,
Perambalur, Perambalur District.
8. The Chief Educational Officer,
Virudhunagar, Virudhunagar District.
9. The Chief Educational Officer,
Cuddalore, Cuddalore District.
10. The Cheif Educational Officer,
Coimbatore, Coimbatore District.
11. The Cheif Educational Officer,
Tiruppur, Tiruppur District.
12. The Cheif Educational Officer,
Krishnagiri, Krishnagiri District.
13. The chief Educational Officer,
Dindigul, Dindigul District.

14. The chief Educational Officer,
Theni, Theni District.
15. The chief Educational Officer,
Thirunelveli. Thirunelveli District.
16. The chief Educational Officer,
Vellore District, Vellore.
17. The chief Educational Officer,
Thiruvannamalai,
Thiruvannamalai District.
18. The chief Educational Officer,
Kancheepuram,
Kancheepuram District.
19. The District Elementary Officer,
Thiruvallur District,
Thiruvallur.
20. The Chief Educational Officer,
Dharmapuri,
Dharmapuri District.
21. The District Elementary Educational Officer,
Kancheepuram,
Kancheepuram District.
22. The District Elementary Educational Officer,
Thiruvannamalai District,
Thiruvannamalai.
23. The Chief Educational Officer,
Madurai.
24. Chief Educational Officer,
Nagapattinam District.
25. The District Educational Officer,
Usilampatty, Madurai.
26. The Chief Educational Officer,
Tuticorin District.
27. The State of Tamil Nadu,
rep. by its Secretary,
Finance [P.1] Department,
Fort St. George, Chennai 9.

28. The Director of School Education,
[Higher Secondary], College Road,
DPI Compound, Chennai 600 006.

29. The Chief Educational Officer,
Thanjavur Post, Thanjavur.

30. The Commissioner of Chennai Corporation,
Chennai Corporation Building,
Chennai 600 003.

31. The Deputy Commissioner of Chennai Corporation
Education Department,
Chennai Corporation Building,
Chennai 600 003.

32. The Educational Officer,
Chennai Corporation Building,
Chennai 600 003.

33. The Chief Educational Officer,
Namakkal, Namakkal District.

34. The Chief Educational Officer,
Erode, Erode District.

35. The Chief Educational Officer,
Salem, Salem District.

36. The Chief Educational Officer,
Karur District, Karur.

37. The District Welfare Officer,
Chennai-1, Chennai District.

+5ccs to M/s.V.Thirupathi, Advocate SR.No.22382 to 22386

+1cc to M/s.Bala & Daisy, Advocate SR.No.22837

+1cc to Ms.M.Srividhya, Advocate SR NO 22735

+1cc to Mr.G.Sankaran, Advocate SR.No.22735

+3ccs to Mr.K.K.Gunasekar, Advocate SR.No.22239

+8ccs to Mr.A.Rajendran, Advocate SR.No.22803

SAI[co]
gp/02.06.2015

W.P.No.8974 of 2015, etc. batch