

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2015

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THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.9555 of 2015

1. R.Kuppusamy
2. S.Sundaram
3. S.Saroja
4. S.Shanmugam .. Petitioners

Vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
Fort St. George, Chennai-600 009.
2. The Director of Elementary Education,
College Road, Chennai-600 006.
3. The District Elementary Educational Officer,
Erode District, Erode. .. 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 benefit of G.O.Ms.No.210, Education (G1) Department, dated 14.08.2009, and to count the service rendered by the petitioner as Primary School Headmaster and Secondary Grade Teacher prior to 01.06.1988 for the purpose of Selection and Special Grade pay in the post of B.Ed. Middle School Headmaster and fix the petitioner's pay in the post of B.Ed. Middle School Headmaster consequently and grant arrears of pay and send the revised pension proposal to the Accountant General for sanction.

For Petitioners : 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. The service particulars of the petitioners, that are required for the purpose of this case, are hereunder :

Sl No	Name of the Petitioner	Date of Joining as Higher Grade Teacher	Date of promotion as Secondary Grade Teacher	Date of Promotion as Middle School headmaster	Date of Retirement
1	R.Kuppusamy	19.06.1970	01.01.1971	16.07.1997	31.08.1999
2	S.Sundaram	--	10.06.1971	16.07.1997	30.09.2007
3	S.Saroja	--	28.01.1974	18.06.2001	31.03.2010
4	S.Shanmugam	--	02.10.1973	18.06.2001	31.10.2008

8. As stated above, if a Teacher joined as Secondary Grade Teacher before 01.10.1970, he is entitled to Selection Grade/Special Grade pay in the post of Middle School Headmaster,

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, from the date of his promotion.

9. The petitioners 2 to 4 herein joined service on 10.06.1971, 28.01.1974 and 02.10.1973 respectively. Since the petitioners joined the service after 01.10.1970, even if they were promoted as Middle School Headmasters, the petitioners are not entitled to seek the benefit of G.O.Ms.No.210, School Education (G1) Department, dated 14.08.2009 by granting Selection Grade/Special Grade pay in the post of Middle School Headmaster, by counting the service rendered as Secondary Grade Teachers/Primary School Headmasters, from the date of their promotion as Middle School Headmasters. Hence, the petitioners 2 to 4 cannot seek benefit of G.O.Ms.No.210 and this petition is dismissed in respect of the petitioners 2 to 4.

10. The first petitioner herein joined service as Higher Grade Teacher on 19.06.1970, and he did not join the service as Secondary Grade Teacher, though he possessed qualification to hold the post of Secondary Grade Teacher.

11. It is submitted that the teachers appointed in the post of Higher Grade Teachers, when they possessed qualification to hold the post of Secondary Grade Teacher, filed writ petitions seeking to treat the period of service rendered as Higher Grade Teachers as Secondary Grade Teachers for all purposes and the said writ petitions are pending before this Court.

12. Unless the service of the first petitioner as Higher Grade Teacher is treated as Secondary Grade Teacher, he cannot seek the benefit of G.O.Ms.No.210, since he joined service as Secondary Grade Teacher only on 01.01.1971 and not before 01.10.1970. This Court is of the view that if the writ petitions seeking to treat the period of service as Higher Grade Teacher as Secondary Grade Teacher is decided in favour of the petitioners therein, then alone, the first petitioner herein is entitled to claim the benefits of G.O.Ms.No.210.

13. With the above observations, the writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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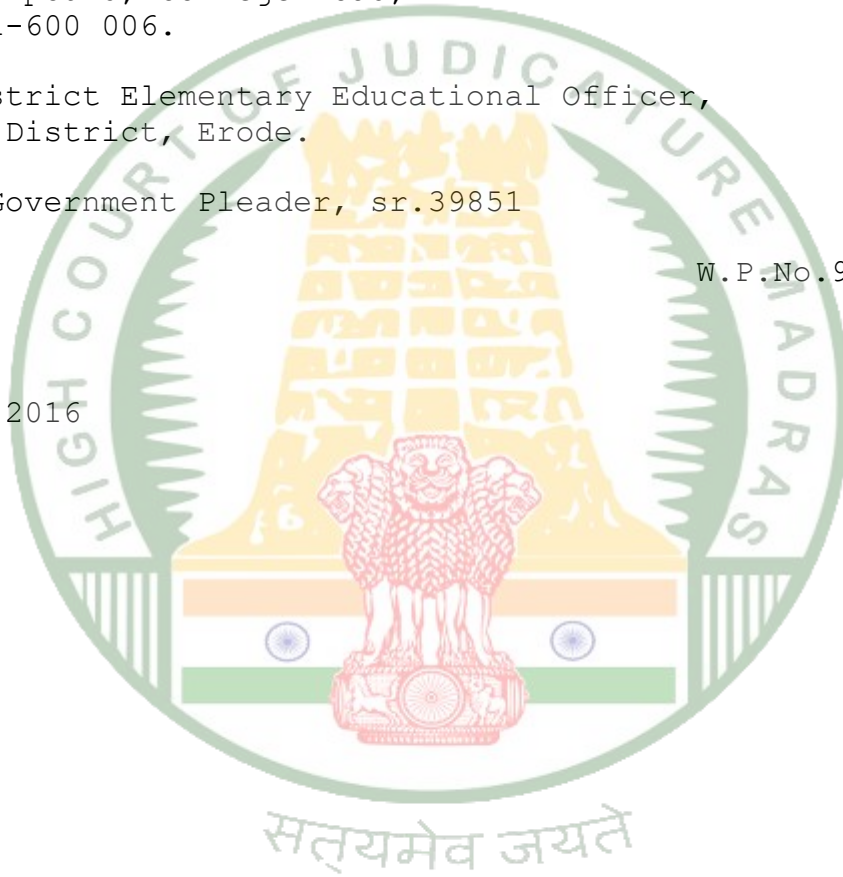
To

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

+1 cc to Government Pleader, sr.39851

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