

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2015

CORAM

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.3263 of 2012
and M.P.No.1 of 2012

C.Natesan

... Petitioner

Vs.

1. The Government of Tamil Nadu represented by the Principal Secretary to the 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, Tiruppur, Tiruppur District.
4. The Accountant General (A & E), Chennai - 600 018.

... Respondents

* * *

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the first respondent in G.O.Ms.No.210, School Education Department, dated 14.08.2009 and quash the same insofar as it restricts the benefit of pay fixation only to 65 Headmasters who had filed writ petitions and direct the respondents to extend the benefit of G.O.Ms.No.210, School Education Department, dated 14.08.2009 to the petitioner also and count the service rendered by him in the post of Primary School Headmaster and Middle School Headmaster prior to 01.06.1988 along with the service rendered in the post of Middle School Headmaster after 01.06.1988 and accordingly fix the petitioner's pay in the selection / special grade of Middle School Headmaster and grant him all consequential benefits.

* * *

For Petitioner : Mr.P.Rajendran

For Respondents : Mr.D.Krishankumar
Special Govt. Pleader
assisted by Mr.K.Karthikeyan,
Govt. Advocate for RR 1 to 3
Mr.V.Vijayshankar for R4

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.

7.1. In this case, though the prayer is to quash G.O.Ms.No.210, dated 14.08.2009 insofar as it restricts the benefits to 65 teachers, the learned counsel for the petitioner submitted that the petitioner would be satisfied if a direction is issued to the respondents to extend the benefits of G.O.Ms.No.210 to the petitioner, as the petitioner has joined as Secondary Grade Teacher before 01.10.1970.

7.2. The petitioner herein was appointed as Headmaster at a Panchayat Union Middle School on 24.09.1964 and he was posted as Primary School Headmaster on 16.07.1965 and he was promoted as Middle School Headmaster on 11.12.1981. He retired from service on 30.06.2000.

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 herein became Middle School Headmaster on 11.12.1981 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 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 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 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 the petitioner was not given the same already, with all monetary benefits and the pensionary benefits with arrears 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.
gg

s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

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,
Tiruppur, Tiruppur District.
4. The Accountant General (A & E),
Chennai - 600 018.

+ 1 cc to Mr.V.Vijay Shankar Advocate SR 30391

+ 1 cc to Mr.P.Rajendran, Advocate SR 31034

jsv(co)
prk22/1

W.P.No.3263 of 2012



WEB COPY