

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.23919 of 2013

R.Seetharaman

... Petitioner

Vs.

1. State of Tamil Nadu,
Rep. by Principal Secretary to Government,
Education Department,
Fort St. George, Chennai-600 009.
2. The Director of Elementary School Education,
Chennai-600 006.
3. The District Elementary Educational Officer,
Theni District, Theni.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent in relation to the proceedings issued in Letter I(D)No.311/G1/2012 School Education Department dated 31.08..2010 and quash the same and issue a consequential direction to the respondents to extend the benefit of G.O.Ms.No.210, School 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 Middle School Headmaster and fix the petitioner's pay in the post of Middle School Headmaster and grant arrears of pay and send the revised pension proposal to the Accountant General for sanction.

For Petitioner : Mr.K.Venkataramani,
Senior Counsel
for M/s.M.Muthappan

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 was appointed as Higher Grade Teacher on 29.10.1968 and he was promoted as Secondary Grade Teacher on 01.01.1971 and thereafter, he was promoted as Middle School Headmaster on 07.08.1995. He retired from service on 30.06.2004.

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 joined service as Higher Grade Teacher on 29.10.1968, and he did not join the service as Secondary Grade Teacher, though he possessed qualification to hold the post of Secondary Grade Teacher.

9. 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.

10. Unless the service of the 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 petitioner herein is entitled to claim the benefits of G.O.Ms.No.210.

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

Sd/-
Assistant Registrar(CS VI)

//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 School Education,
Chennai-600 006.
3. The District Elementary Educational Officer,
Theni District, Theni.

+1cc to Mr.M.Muthappan, Advocate, S.R.No.39708
+1cc to the Government Pleader, S.R.No.39830

W.P.No.23919 of 2013

JSV(CO)
CA(24/02/2016)