



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 27.08.2015
Coram

THE HONOURABLE MR.JUSTICE T.RAJA

WEB COPY

W.P. (MD) Nos.15518 & 15519 of 2015

1.K.Buvaneshwari :Petitioner in WP.15518/2015

2.A.Raju :Petitioner in WP.15519/2015

vs.

1.The State of Tamil Nadu,
Rep.by the Secretary to Government,
Finance (Pay Cell) Department,
Secretariat, Chennai.

2.The Chief Educational Officer,
O/o.Chief Education Office,
Ramanathapuram.

3.The District Educational Officer,
O/o.District Education Office,
Paramakudi,
Ramanathapuram District. : Respondents 1 to 3 in both Wps

4.The Head Master,
Arasar Sethupathi Government Hr.Sec.School,
Paramakudi,
Ramanathapuram District. : 4th Respondent in WP.15518/2015

5.The Head Master,
R.S.Government Hr.Sec.School
Paramakudi,
Ramanathapuram District. : 4th Respondent in WP.15519/2015

Prayer in both Wps.: Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Mandamus, directing the respondents to extend the benefits of G.O.Ms.No.216, Finance (PC) Department, dated 22.03.1993 in the light of the orders passed by the Division Bench of this Court in W.A.(MD) No.352/2014, dated 04.02.2015, G.O.Ms.No.258 Education (M1) Department, dated 6.9.2010 and in the light of G.O.Ms.No.62 Finance (CMPC) Department, dated 09.03.2015 and accordingly to award selection / special grade scale of pay with effect from 01.01.1988 to pay revision of pensionary benefits and arrears to the petitioner.



For Petitioners
(In both Wps.)

:Mr.S.Arivalagan

For Respondents
(R1 to R3)

:Mr.V.Pandi
Govt.Advocate

WEB COPY (In both Wps.)

COMMON ORDER

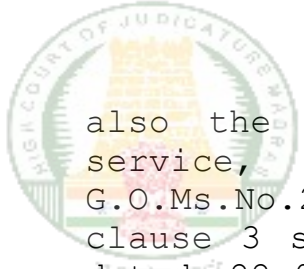
These two Writ Petitions have been filed by one K.Buvaneshwari and A.Raju respectively, seeking similar relief, for issuance of Writ of Mandamus, directing the respondents to extend the benefits of G.O.Ms.No.216, Finance (PC) Department, dated 22.03.1993, in the light of the orders passed by the Division Bench of this Court in W.A.(MD)No.352/2014, dated 04.02.2015, G.O.Ms.No.258 Education (M1) Department, dated 6.9.2010 and in the light of G.O.Ms.No.62 Finance (CMPC) Department, dated 09.03.2015 and accordingly, to award selection / special grade scale of pay with effect from 01.06.1988 and to pay revision of pensionary benefits and arrears to the petitioner.

2. I have heard the learned counsel appearing for the petitioners and the learned Government Advocate appearing for the respondents.

3. The petitioner in W.P.(MD)No.15518 of 2015 viz., Buvaneshwari, was appointed as a Secondary Grade Teacher on 08.10.1971 at Government Girls High School, Thondi. On completion of probation on 07.10.1973, again completed 10 years of service. Therefore, she was upgraded as selection grade teacher from 08.10.1981 and transferred to Arasar Sethupathi Government Higher Secondary School, Paramakudi and after completion of 20 years of service, she was upgraded as Special Grade Teacher on 08.10.1991, Finally, on reaching the superannuation, she retired from service on 31.05.2004.

4. Similarly, A.Raju, the Writ Petitioner in W.P.(MD)No.15519 of 2015, was also appointed as Secondary Grade Teacher on 16.11.1979 at Government High School, Shanmuganathapattinam, Ramanathapuram District. On completion of probation on 15.11.1981, he got transferred to R.S.Government Higher Secondary School, Paramakudi, on 01.06.1987. However, on completion of 10 years of service, he was upgraded as Selection Grade Teacher from 16.11.1989. Again on completion of 20 years of service, he was upgraded as Special Grade Teacher from 15.11.1999. Finally, on 30.06.2006, on reaching the superannuation, he had retired from service.

<https://hcservices.courts.gov.in/cse/for> Therefore, the claim of both the petitioners was that although they were granted the benefit of selection grade on acquiring 10 years of service from the date of appointment and



also the benefits of special grade on rendering 20 years of service, still they are entitled to get the benefits of G.O.Ms.No.216, Finance (PC) Department, dated 22.03.1993. In clause 3 sub clause 2 of G.O.Ms.No.216, Finance (PC) Department, dated 22.03.1993 it has been stated that with regard to the Secondary Grade Teacher in High School, there is no promotional post for them as on 28.03.1980 viz., the date of issuance of G.O.Ms.No.304, Finance (PC) Department, dated 28.03.1990, although there is a promotional post in Primary Schools, hence, as measure of uniformity in measure of Secondary Grade Teacher, the Government have directed that the teacher be made eligible for Selection / Special Grade as in Annexure I to the Government Order in G.O.Ms.No.304, Finance (PC) Department, dated 28.03.1990, however, in view of the denial of the benefit granted by the Government under the Said Government Order in G.O.Ms.No.216 Finance (PC) Department, dated 22.03.1993 some of the teachers went before the Tribunal by filing O.A.No.7908 and 8276 of 1997, considering in the case of the petitioners therein, the Tribunal has 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."

6. Aggrieved by the order passed by the Tribunal, the State preferred a Writ Petition No.8747 of 2009 that was dismissed by a Division Bench of this Court. Again when the matter was taken up to the Hon'ble Apex Court in SLP.(CC)No.2746 of 2010, the order passed in O.A.No.8276 of 1997 by the learned Tribunal was confirmed by the Hon'ble Apex Court on 23.04.2010, in the said SLP in C.C.No.2746 of 2010 thereby, binding the parties. Therefore, accepting the decision of the Hon'ble Apex Court, the Government have also issued Further Government Order in G.O.Ms.No.218, dated 4.9.2010 to implement the order passed by the Tribunal. Therefore, when a policy decision is taken by the Government to extend certain benefits, the same has to be extended to all the eligible persons, as per the scheme. When a similar issue came up before a Division Bench of this Court in the case of *Eswaran Vs. Government of Tamil Nadu* in W.A.No.352 of 2014, wherein it has been held as follows:-

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."

7. The above observation of the Hon'ble Division Bench leaves no doubt that the petitioners, who are also similarly placed, are entitled to get the benefit of G.O.Ms.No.216, Finance (PC) Department, dated 22.03.1993. Therefore, the respondents are hereby directed to extend the benefits of G.O.Ms.No.216, Finance (PC) Department, dated 22.03.1993, to the petitioners, in the light of the order passed by the Division Bench in W.A.No.352 of 2014, dated 04.02.2015. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order

<https://hcservices.ecourts.gov.in/hcservices/>

8. With the above direction, the writ petitions are disposed



of. No costs. Consequently, connected miscellaneous petitions are closed.

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/True Copy/

Sd/-
Assistant Registrar

Sub Assistant Registrar

MPK

To

- 1.The State of Tamil Nadu,
Rep.by the Secretary to Government,
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Paramakudi,
Ramanathapuram District

+1cc to M/S. S.ARIVALAGAN, Advocate, in SR.No. 49660
+2cc TO M/S.SPL.GOV'T.PLEADER, SR NOS:49700,40701

JAM/AN-MP/21.9.15/6P-9C

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