

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2016

CORAM :

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

W.P.No.13876 of 2010

1 M.MANNATHAN
2 S.THAMBINATHAN
3 M.RAMALINGAM
4 M.GOPALAKRISHNAN .. Petitioner

Vs.

1 THE GOVERNMENT OF TAMIL NADU
REP. BY THE PRINCIPAL SECRETARY TO THE
GOVERNMENT SCHOOL EDUCATION DEPARTMENT
FORT ST. GEORGE CHENNAI-9.
2 THE DIRECTOR OF ELEMENTARY
EDUCATION COLLEGE ROAD CHENNAI-6.
3 THE ASSISTANT ELEMENTARY
EDUCATIONAL OFFICER VALLAM VILLUPURAM
DISTRICT. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus, calling for the records relating to the impugned order of the 3rd respondent in Na. Ka. No. 417/A1/2010 dt 11.3.2010 and quash the same and direct the respondents to pay to the petitioners the arrears of pay arrears of leave salary and arrears of the pay for the period of re-employment on the basis of the pay re-fixed as per G.O.Ms.No.207, School Education Department, dated 30.9.2008.

For Petitioners: Mr.P.Rajendran
For Respondents: Mr. V.Jaya Prakash Narayanan
Spl.G.P.

ORDER

The prayer in the writ petition is for a writ of certiorarified mandamus, calling for the records relating to the impugned order of the 3rd respondent in Na. Ka. No. 417/A1/2010 dated 11.3.2010 and quash the same and direct the respondents to pay to the petitioners the arrears of pay arrears

of leave salary and arrears of the pay for the period of re-employment on the basis of the pay re-fixed as per G.O.Ms.No.207, School Education Department, dated 30.9.2008.

2. The petitioners after having employed as Secondary Grade Teacher and Primary School Head Master retired in the year between 1999-2005. As per the G.O.Ms.No.207, School Education Department, dated 30.09.2008, the pay of the persons, who were promoted as Primary School Head Masters after 01.6.1988 should be fixed in the Selection Grade/Special Grade pay of Primary School Headmaster by counting the service rendered by them in the Selection Grade/Special Grade scales of pay of Secondary Grade Teacher as directed in G.O.Ms.No.212, School Education Department, dated 07.08.2000. All the petitioners herein were promoted as Primary School Headmasters after 01.6.1988 and at the time of promotion, they were drawing the pay in the Selection Grade/Special Grade of Secondary Grade Teacher. Therefore, they requested to fix their pay in accordance with the said Government Order and consequently, revise their pension on that basis. However, they have not been paid the arrears of pay consequent on the re-fixation of pay for the period they worked as Primary School Headmasters. While so, ultimately, by impugned order dated 11.3.2010, the request of the petitioners' were rejected by the third respondent on the ground that there is no provision for grant of such arrears in the said Government Order G.O.Ms.No.207. Therefore, challenging the same, the petitioners have come out with the present writ petition.

3. Heard both sides.

4. The learned counsel appearing for the petitioner would contend that the issue has already been considered by this Court in W.P.No.25001 of 2012 by order dated 11.11.2014 in the matter of S.Chandrasekaran and others Vs.The Government of Tamil Nadu rep. by Secretary to the Government, School Education Department and others wherein after having considered the various aspects of the issue in detail, the learned Judge ultimately, had allowed the writ petition with the following directions:

"65. For all the aforesaid reasons, the writ petition is allowed and the proceeding dated 23.07.2010 in Na.Ka.No.2200/C2/2010 of the second respondent is quashed and a direction is issued to the respondents to extend the benefit of counting the service of Secondary Grade Teacher for grant of Selection Grade and Special Grade in the post of Primary School Headmaster with monetary benefits to the persons who were promoted after 01.06.1988, if those teachers joined

prior to 01.06.1988 without reference to the date of promotion as Primary School Headmaster and without driving them to this Court to obtain an order in their favour and also a direction is issued to the respondents to pay the monetary benefits, i.e., arrears of pay to the petitioners, pursuant to the grant of Special Grade in the post of Primary School Headmaster with effect from 01.07.1994, 14.01.1999 and 07.11.1992 by the fourth respondent in the proceeding dated 07.01.2012, 27.01.2012, 14.01.1999 and 07.11.1992 by the fourth respondent in the proceeding dated 07.01.2012, 27.01.2012 and 10.02.2012 respectively, within a period of eight weeks from the date of receipt of a copy of this order."

5. The learned counsel for the petitioners would further contend that since the issue has already been covered by the said decision of this Court referred to above and the petitioners since are placed similarly, they are also entitled to get the same benefit which in fact has been refused by the third respondent by the order impugned. Therefore, he wants the writ petition to be allowed in terms of the earlier order passed by this Court.

6. Per contra, the learned Special Government Pleader appearing on behalf of the respondents would contend that though an order to that effect was passed in the Judgment referred to above, whether the same relief can be given to these petitioners can be considered once again by the respondents only based on their individual merits and their service records after verifying the same.

7. In that view of the matter, the issue can once again be re-considered by the authorities.

8. In view of the said submissions made by the learned respective counsel, this Court is of the view that at any rate, the impugned order refusing to grant the benefit of arrears of pay for the petitioners by merely citing the reasons that there is no provision in G.O.Ms.No.207, is unsustainable, in view of the orders passed earlier by this Court.

9. Therefore, the said impugned order is liable to be quashed and accordingly, is quashed.

10. Consequently, the matter is remitted back to the respondents for their reconsideration. The respondents therefore, are hereby directed to reconsider the issue on the

plea of the petitioners for grant of arrears pursuant to the said Government Orders by taking into account the orders passed by this Court in W.P.No.25001 of 2012 by order dated 11.11.2014 and decide the issue and pass orders for the purpose of grant of arrears of pay to the petitioners within a period of eight weeks from the date of receipt of a copy of this order.

11. With this direction, the writ petition is allowed in part. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1 THE PRINCIPAL SECRETARY TO THE
GOVERNMENT, GOVERNMENT OF TAMIL NADU
SCHOOL EDUCATION DEPARTMENT
FORT ST. GEORGE CHENNAI-9.

2 THE DIRECTOR OF ELEMENTARY
EDUCATION COLLEGE ROAD CHENNAI-6.

3 THE ASSISTANT ELEMENTARY
EDUCATIONAL OFFICER VALLAM VILLUPURAM
DISTRICT.

+ 1 cc to M/s. P. Rajendran, Advocate Sr.68841

+ 1 cc to the Government Pleader Sr.69150

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