

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.36194 of 2016

W.Aaftha Begum

... Petitioner

Vs.

- 1 The Principal Secretary to Government
School Education Department,
Secretariat, Chennai – 600 009.
- 2 The Director of Elementary Education,
Chennai – 600 006.
- 3 The District Elementary Educational Officer,
Salem, Salem District. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to consider and pass order on the petitioner's representation dated 15.03.2015 in regard to grant of selection grade and special grade pay in the post of elementary school headmaster post with effect from 1.6.1988 in the G.O.Ms.No.234 Education (G2) Department dated 10.9.2009 and Judgment made in W.A.No.815 of 2010 and Government letter No.29949/EE/(1)2/2014-21 dated 13.3.2014 within a stipulated time as fixed by this Hon'ble Court.

For Petitioner : Mr.M.Ramdoss
For Respondents : Mr.R.Venkatesh for R1 to R3
Government Advocate

ORDER

By consent, the writ petition is taken up for final disposal.

2.The present writ petition has been filed seeking a Mandamus directing the respondents to consider and pass order on the petitioner's representation dated 15.03.2015 with regard to grant of Selection Grade and Special Grade Pay in the post of Elementary School Headmaster with effect from 01.06.1988 in the G.O.Ms.No.234 Education (G2) Department dated 10.09.2009 and Judgment made in W.A.No.815 of 2010 and Government letter No.29949/EE/(1)2/2014-21 dated 13.03.2014, within a stipulated time as fixed by this Court.

3.The petitioner would state that she joined as Secondary Grade Teacher on 01.04.1974 and subsequently, she was awarded Selection Grade on 01.04.1984 and Special Grade on 01.04.1994. Thereafter, she was promoted as Elementary School Headmaster on 13.06.2003 and retired on reaching the age of superannuation on 31.03.2004, in the same post. It is stated that the post of Secondary Grade Teacher, Primary School Headmaster and Middle School Headmaster in the Panchayat Union Schools are all treated as one and the same and interchangeable. The post of Middle School Headmaster became promotional post with effect from 01.01.1970 and the post of

Secondary Grade Teacher and Primary School Headmaster were treated as interchangeable and inter-transferable on the ground that both the posts carried same scale of pay.

4.The petitioner would further state that the post of Primary School Headmaster became promotional post with effect from 01.06.1988 on awarding higher scale of pay than the post of Secondary Grade Teacher as per the recommendations of the V Pay Commission. Prior to 01.06.1988, no seniority has been followed for the post of Primary School Headmaster on the ground that both the posts were interchangeable. The Secondary Grade Teachers were posted as Primary School Headmasters as well as Wardens as per the administrative exigencies and need of the school without following any seniority.

5.The petitioner would further state that the service of Teachers in Panchayat Union Schools were provincialised and they became Government Servants with effect from 01.06.1981 and were brought under the control of the State Education Department. Once the post of Primary School Headmaster became a promotional post, it should be filled as per the seniority from 01.06.1988 onwards, but the Director of Elementary Education vide proceedings dated 17.02.1990,

directed that the Teachers who were holding the post of Primary School Headmaster as on 01.06.1988 are deemed to have been appointed as Primary School Headmaster and they are entitled to continue in the same proceedings. It is also directed that seniority has to be followed for promotion to the post of Primary School Headmaster after 01.06.1988.

6.The petitioner would further state that the Government has issued G.O.Ms.No.1381, Education Department, dated 05.10.1990 and directed that the Headmaster of Primary Schools who were in position on 01.06.1988 be awarded Selection Grade / Special Grade in the revised scales on or after 01.06.1988 counting the period of service rendered as Secondary Grade Teacher as well as Primary School Headmaster prior to 01.06.1988 and counting both the services for the purpose of pay fixation has not been extended to the Secondary Grade Teachers who were promoted after 01.06.1988, though they are seniors and would further state that it is discriminatory and violative of Articles 14 and 16 of the Constitution of India.

7.The petitioner would further state that number of representations were made by the affected Teachers to the Government to extend the benefit of counting both the services

rendered as Secondary Grade Teacher and Primary School Headmaster prior to 10.06.1988 to the Primary School Headmaster who were promoted after 01.06.1988 as per the seniority. Since the Government has not passed any favourable orders, Original Applications were filed before the Administrative Tribunal and the Tribunal directed that the Secondary Grade Teacher who were promoted as Primary School Headmasters after 01.06.1988 are entitled to count their services rendered both as Primary School Headmaster and Secondary Grade Teacher before 01.06.1988 i.e., during the period in which both were treated as interchangeable for the purposes of pay fixation in Selection Grade and School Grade Scales of pay. The writ petitions filed by the Education Department against the order of the Administrative Tribunal were dismissed by this Court vide order dated 21.02.2008.

8.The petitioner would further state that the Government had issued orders in G.O.Ms.No.234, School Education Department, dated 10.09.2009, directing to award Selection Grade / Special Grade scale of pay to those who were promoted as Headmasters of Elementary Schools after 01.06.1988 by counting their earlier service, prior to 01.06.1988, in respect of only 63 persons, but the same benefits were not extended to others, who were all similarly situated persons.

9.The petitioner would further state that she is also entitled to the benefit of G.O.Ms.No.234 dated 10.09.2009. In this regard, the petitioner has made a representation dated 15.03.2015 to the respondents and since no response is forthcoming, came forward to file this writ petition.

10.The learned counsel appearing for the petitioner would submit that similarly placed retired Headmasters of Elementary Schools filed batch of writ petitions in W.P.Nos.26608/09, 25742/09, 5884/2010 before this Court, but the same were dismissed on the ground of latches and on merits. Against the said order, W.A.Nos.815, 1531, 1691 to 1693 and 1165 of 2010 were filed and the Division Bench of this Court, by order, dated 07.07.2011 has allowed the writ appeals with a direction to the respondent therein to extend the benefits of G.O.Ms.No.234, School Education Department, dated 10.09.2009 to the appellants. Thus, he prayed for appropriate orders.

11.Heard the submissions of the learned counsel for the petitioner as well as the learned Government Advocate.

12. In view of the submissions made by the learned counsel appearing for the petitioner, I am of the opinion that it would be appropriate to direct the respondents to consider the representation of the petitioner, dated 15.03.2015 within the time frame. Accordingly, the first respondent is directed to consider the representation of the petitioner, dated 15.03.2015, in the light of the Division Bench judgment passed in W.A.Nos.815, 1531, 1691 to 1693 and 1165 of 2010, dated 07.07.2011 and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

13. With the above observations, this writ petition stand disposed of. No costs.

18.10.2016

pri

Index: Yes / No Internet: Yes / No

To

- 1 The Principal Secretary to Government
School Education Department,
Secretariat, Chennai – 600 009.
- 2 The Director of Elementary Education,
Chennai – 600 006.
- 3 The District Elementary Educational Officer,
Salem, Salem District.

R.SUBBIAH,J.
pri

W.P.No.36194 of 2016

18.10.2016