

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.39726 of 2016

R.Devendran

... Petitioner

Vs.

- 1 The Government of Tamil Nadu represented by the Secretary to the Government, School Education Department, Fort St.George, Chennai - 600 009.
- 2 The Director of Elementary Education, College Road, Nungambakkam, Chennai - 600 006.
- 3 The District Elementary Educational Officer, Villupuram, Villupuram District. Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to fix the petitioners pay in the cadre of "Secondary Grade Middle School Headmaster", with effect from 15.08.1990 to 31.05.2000 i.e.the period which the petitioner was worked as Secondary Grade Middle School Headmaster with all consequential benefits including arrears of pay.

For Petitioner : Mr.S.Ganesh

For Respondents : Mr.V.Anandhamoorthy

Additional Government Pleader (Edn.)

O R D E R

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 fix the petitioners pay in the cadre of "Secondary Grade Middle School Headmaster", with effect from 15.08.1990 to 31.05.2000 i.e. the period which the petitioner was worked as Secondary Grade Middle School Headmaster with all consequential benefits including arrears of

pay.

3.The petitioner would state that he worked as Primary School Headmaster from 01.11.1965 to 14.08.1990 at Panchayat Union Primary School, Vellore Village, Thirunavalur Panchayat Union, Villupuram District. Thereafter, on 15.08.1990 the said School was upgraded as Middle School and consequently, the petitioner was promoted as Secondary Grade Middle School Headmaster on 15.08.1990 itself in the same School and he worked there till 31.05.2000. Thereafter, the petitioner was transferred to Panchayat Union Primary School, Paramanatham on 01.06.2000 and he worked there till 31.08.2000 and retired from service. Thereafter, the petitioner was given re-employment till the end of the said academic year, namely, 31.05.2001.

4.The petitioner would further state that the qualifications for the post of Middle School Headmaster (Secondary Grade) are governed as per the Special Rules for the Tamil Nadu Elementary Subordinate Service and he was given promotion as Middle School Headmaster (Secondary Grade) as per the said Rule and hence, he is eligible for the pay scale in the promotional post, in accordance with Fundamental Rules 22 (B). The petitioner therefore, made representation dated 03.01.2016 to the second respondent seeking fixation of pay in the cadre of Secondary Grade Middle School Headmaster from 15.08.1990 to 31.05.2000, but the same has not been considered so far. Hence, this petition.

5.The learned counsel appearing for the petitioner would submit that in an identical issue, this Court vide order dated 10.06.2009 made in W.P.No.20506 of 2006 (O.A.No.7490 of 1995) (M.Palanisamy Vs. 1.The Director of Elementary Education, College Road, Nungambakkam, Madras - 6 and two others) has directed the respondents therein to fix the scale of pay of the petitioner therein, in the post of Headmaster Middle School (Secondary Grade) from the date of his promotion and to work out the arrears of salary and other attendant benefits attached to the said post and to pay the same within a time frame. He further submitted that though the petitioner has sought for a positive relief, if a direction is given to the respondents to consider the petitioner's representation dated 03.01.2016 in the light of the decision cited supra, that would suffice.

6.I have also heard the submissions of the learned Additional Government Pleader (Edn.) who take notice for the respondents.

7.The relevant portion of the judgment of this Court dated 10.06.2009 made in W.P.No.20506 of 2006 (O.A.No.7490 of 1995) (M.Palanisamy Vs. 1.The Director of Elementary Education,

College Road, Nungambakkam, Madras - 6 and two others) reads as follows:

"41.As stated supra, the post of Middle School Headmasters (Secondary Grade) has been declared as promotional post with effect from 1.10.1970 onwards. For the above said reasons, the petitioner is entitled to pay scale applicable to the post of "Secondary Grade Middle School Headmaster" with effect from 03.09.1987. The respondents are directed to fix the scale of pay of the petitioner in the post of Headmaster Middle School (Secondary Grade) from the date of his promotion, i.e., 03.09.1987 and consequently, work out the arrears of salary and other attendant benefits attached to the said post and pay the same within three months from the date of receipt of a copy of this order."

8.Considering the submissions made on either side and without going into the merits of the case, this Court directs the petitioner to give a copy of the representation dated 03.01.2016 along with a copy of this order to the respondents, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondents are directed to consider the said representation seeking to fix the petitioner's pay in the cadre of "Secondary Grade Middle School Headmaster", with effect from 15.08.1990 to 31.05.2000 i.e., the period which the petitioner worked as Secondary Grade Middle School Headmaster with all consequential benefits, including arrears of pay, in the light of the judgment of this Court dated 10.06.2009, made in W.P.No.20506 of 2006 (O.A.No.7490 of 1995) (M.Palanisamy Vs. 1.The Director of Elementary Education, College Road, Nungambakkam, Madras - 6 and two others) and pass appropriate orders, on merits and in accordance with law, within a period of six weeks thereafter.

9.The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1 The Government of Tamil Nadu represented
by the Secretary to the Government,
School Education Department,
Fort St.George, Chennai - 600 009.
- 2 The Director of Elementary Education,
College Road, Nungambakkam,
Chennai - 600 006.
- 3 The District Elementary Educational Officer,
Villupuram, Villupuram District.

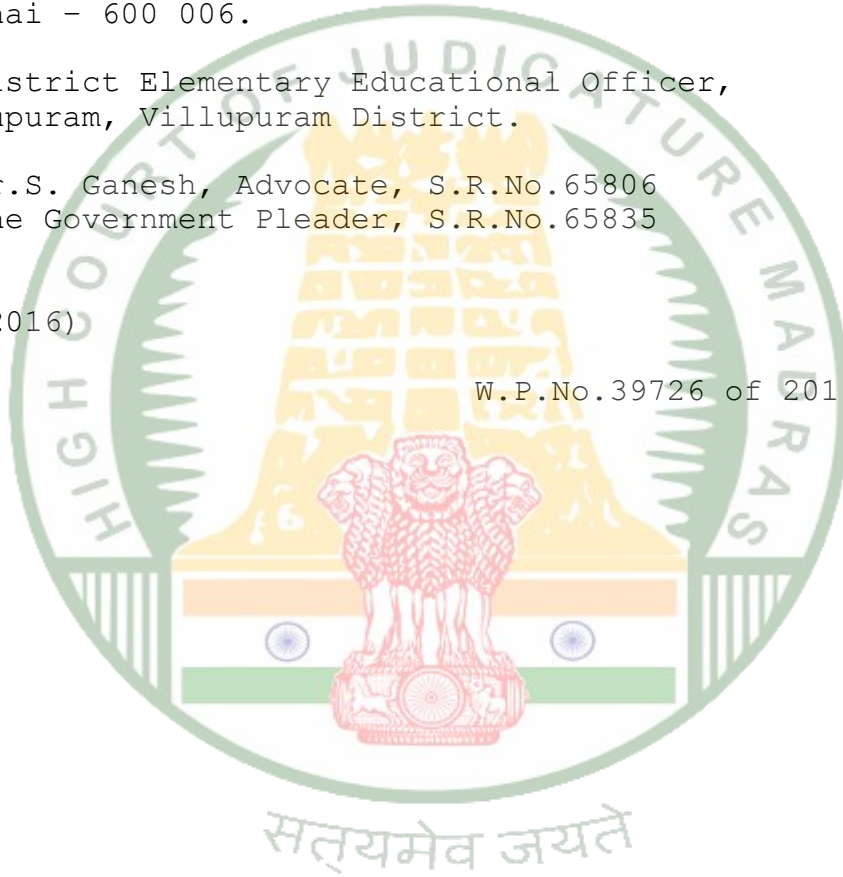
+lcc to Mr.S. Ganesh, Advocate, S.R.No.65806

+lcc to the Government Pleader, S.R.No.65835

pvs (CO)

md(23/12/2016)

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