

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.8.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

W.P.No.22293 of 2012

K.Durairajan

.. Petitioner

Vs

1.The State of Tamilnadu,
Rep. by the Secretary to Government,
Education Department, Secretariat,
Chennai-9.

2.The Director of School Education,
College Road, Chennai - 6.

3.The Chief Educational Officer,
Thanjavoor.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondent to pay Special Grade Scale in the post of Middle School Head Master W.E.F. 01.06.1988 as per G.O.Ms.146 School Education Department dated 19.06.2012 with consequential pay revision up to 31.05.2002 that is date of retirement and thereafter the consequential increase in the pensioner benefits including monthly pension immediately.

For Petitioner : Mr.R.Singgaravelan
Senior Counsel
for M/s.M.Srividhya

For Respondents : Mr.R.Govindasamy
Spl. Govt. Pleader
for 1st respondent

ORDER

The petitioner has filed this writ petition seeking issuance of a writ of Mandamus to direct the respondents to pay Special Grade Scale in the post of Middle School Head Master with effect from 01.06.1988 as per G.O.Ms.No.146, School Education

Department, dated 19.06.2012, with consequential pay revision up to 31.05.2002, that is the date of retirement and thereafter the consequential increase in the pensionary benefits, including monthly pension, immediately.

2. The petitioner was selected and appointed to the post of Elementary School Headmaster by direct recruitment on merits and he joined service on 22.07.1963. He claims to have been promoted to the post of Middle School Headmaster on 15.06.1996. In the meanwhile on 14.07.1967, Kilamangalam Panchayat Union Middle School was upgraded as High School and the petitioner was absorbed as Secondary Grade Teacher in that school. It is the specific case of the petitioner that on the date of his retirement, he was holding the post of Secondary Grade Teacher in Papanadu Government Higher Secondary School.

3. It is the case of the petitioner that if he had not been absorbed as Secondary Grade Teacher on 14.07.1967, when Kilamangalam Panchayat Union Middle School was upgraded as Government High School, he would have completed 20 years of service even before 01.06.1988 and as per the V Pay Commission government order, he would have been paid the Special Grade Scale of Pay of the post of Middle School Head Master with effect from 01.06.1988.

4. It is further stated that there are government orders to the effect that the Middle School Head Master absorbed on upgradation of a Middle School to Government High School should be given sufficient pay protection, but despite the same, it is alleged that the said pay protection had not been extended to the petitioner. Exasperated by the same, the petitioner filed O.A.No.8162 of 1996, along with similarly placed applicants, and the same was ordered on 09.04.2002, wherein the Tamil Nadu Administrative Tribunal categorically held that the petitioner would be eligible for selection and special grade, including increments, as if they have been continuing as Headmaster of Middle School, though they are working in the High School.

5. It is stated that despite such order in favour of the petitioner, he was not given the benefits and in the meanwhile the government passed G.O.Ms.No.146, dated 19.06.2012, as per which the Middle School Headmaster absorbed in Government High School is to be paid the selection grade and special grade of pay by counting the entire service rendered by them as Secondary Grade Teacher, Elementary School Headmaster and also as Middle School Headmaster before 01.06.1988.

6. It is stated that even though the above said government order squarely applies to the petitioner, he has not been given the benefits of the same and hence, he made a representation to the first respondent requesting him to give effect to the above

government order. The said representation too did not evoke any response. Hence, the present writ petition for the relief stated supra.

7. The learned counsel for the petitioner contended that non payment of granting special grade scale of pay to the petitioner in the post of Middle School Headmaster with effect from 01.06.1988 is not only arbitrary, but also unreasonable and violative of Articles 14, 16, 21 and 300A of the Constitution of India, and discriminatory as similarly placed persons have been conferred such benefits.

8. I heard Mr.R.Singaravelan, learned Senior Counsel for M/s.M.Srividhya, learned counsel for the petitioner and Mr.R.Govindasamy, learned Special Government Pleader for the respondents and perused the documents available on record.

9. It is admitted position that the State Government as a one time measure issued G.O.Ms.No.146, School Education Department dated 19.06.2012. By the aforesaid order, the State Government had given the benefit to another 260 persons who have got similar relief. It is not in dispute that the petitioner herein also approached the Tamil Nadu Administrative Tribunal, Chennai, by filing O.A.No.8162 of 1997 and the said application was ordered on 09.04.2002, along with a batch of cases, specifically directing as under:

"... the petitioners are entitled to succeed, so long as the petitioners are retained in High Schools and their pay shall be fixed in the scale of Headmasters of Middle Schools. They will also be eligible for selection and special Grades, including increments, as if they have been continuing as Headmaster of Middle School, though they are working in the High Schools."

10. No iota of material has been placed before this Court to show that the above said order passed by the Tribunal has been set aside in the manner known to law by filing of appeal or otherwise. This Court is at a loss to understand as to why the said specific direction has not been complied with by the respondents till date.

11. It is the specific plea of the petitioner, which is not refuted by the respondents, that similarly placed persons had been conferred with such benefits and only a chosen few have been arbitrarily denied such benefits. The act of the respondents certainly smacks of arbitrariness.

12. On this score alone, the writ petition is allowed with the following directions:

- i. The third respondent is directed to send the proposal to the first respondent within a period of two weeks for the payment of the special grade scale of pay for the post of Middle School Headmaster with effect from 01.06.1988 as per G.O.Ms.No.146, School Education Department, dated 19.06.2012;
- ii. On such proposal being sent, the first respondent is directed to consider the same as per G.O.Ms.No.146, School Education Department, dated 19.06.2012 and extend all the benefits to petitioner to which he is lawfully entitled to, within a period of four weeks thereafter; and
- iii. It is made clear that the petitioner would be entitled to consequential increase in the pensionary benefits, including monthly pension, in the light of G.O.Ms.No.146, School Education Department, dated 19.06.2012.
- iv. No costs. Consequently, M.P.No.1 of 2012 is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vs
To

1. The Secretary to Government,
Education Department, Secretariat,
Chennai-9.
2. The Director of School Education,
College Road, Chennai - 6.
3. The Chief Educational Officer,
Thanjavoor.

+1 cc to the Govt Pleader sr 58563

+1 cc to Ms.M.Srividhya Advocate sr 58006

W.P.No.22293 of 2012
and
M.P.No.1 of 2012

aa21/03/2018