



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:11.12.2017

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P. (MD) No.1741 of 2014

WEB COPY

Pa.Pachai Perumal

... Petitioner

Vs.

1.The Government of Tamil Nadu
represented by its Principal Secretary,
School Education Department,
Fort St.George, Chennai-9.

2.The Director of Elementary Education,
DPI Compound,
College Road, Chennai - 6.

3.The District Elementary Educational Officer,
Opp. to Rathna Theatre,
Tirunelveli.

4.The Additional Elementary Educational Officer,
Nanguneri Town & Post,
Tirunelveli District,
Tirunelveli.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 3 & 4 herein to fix the Selection Grade and Special Grade pay to the petitioner in the post of Primary School Head Master by taking the petitioner's service rendered as Second Grade Teacher prior to 01.06.1988 as the petitioner fulfill the norms prescribed in G.O.Ms.No.179, School Education Department, dated 06.09.2013.

For Petitioner : Mr.J.Lawrence

For Respondents : Mr.S.Kumar
Additional Government Pleader.

O R D E R

The petitioner has filed this Writ Petition to issue a Writ of Mandamus, to direct the respondent Nos. 3 and 4 herein to fix the Selection Grade and Special Grade pay to the petitioner in the post of Primary School Head Master by taking the petitioner's service rendered as Second Grade Teacher prior to 01.06.1988 as the petitioner fulfill the norms prescribed in G.O.Ms.No.179, School Education Department, dated 06.09.2013.



2. The case of the petitioner is that he was appointed as Secondary Grade Teacher on 08.06.1974 in the Panchayat Elementary School, Nanguneri Panchayat Union. He was promoted as Head Master of Primary School on 01.06.1989. He retired from service as Head Master on 30.06.2002 and since he was retired in middle of the academic year, he was allowed to work upto the end of academic year ie., 31.05.2003.

3. The learned counsel appearing for the petitioner submitted that the benefits of the Government Order passed in G.O.Ms.No.179, School Education Department, dated 06.09.2013 will be applicable only to those, who were working as secondary grade teacher and primary school headmaster prior to 01.06.1988 and those who were officially promoted as primary school Headmaster between 01.06.1988 and 31.12.1995. Since the petitioner was promoted as primary school Headmaster on 01.06.1989, the salary and the selection and special grade scale of pay were not refixed in the post of Head Master of Primary School as per the said Government order by taking into account the service rendered by him as secondary grade teacher, prior to 01.06.1988.

4. The learned counsel appearing for the petitioner submitted that the respondents 3 and 4 are the competent authorities to implement the above said Government order and to refix the selection grade and special grade to the petitioner. G.O.Ms.No.179 was passed after the legal battle, when the State Government issued Government Order in G.O.Ms.No.234, School Education (G2) Department, dated 10.06.2009 wherein the Government had taken policy decision and ordered that to compute the year of services rendered as secondary grade teacher and primary school headmaster prior to 01.06.1988 to award selection grade and special grade, but the said benefit was restricted to limited Elementary School Headmasters, who approached the Tribunal and the Court and obtained favourable orders. Hence, Several Headmasters have filed several writ petitions seeking the benefits of G.O. (Ms).No.234, dated 10.06.2009 to them also. The Single Judge of this Court had taken different views and some writ petitions were allowed and some of them were dismissed. Those, whose writ petitions were dismissed have preferred Writ Appeal and some of them have got favourable orders.

5. The learned Standing Counsel appearing for the respondents submitted that in order to comply with the order of this Court, the State Government was facing financial crisis extending the benefits to others, who have not approached the Court. To get over from the financial crisis, the State Government had once again issued an another Government Order in G.O.Ms.No.270, School Education (G2) Department dated 20.09.2010, <https://hse.sivajisalem.gov.in/services> limiting the benefits only to those teachers, who have obtained the specific orders from the Court. Again in the year 2011, totally 3137 retired Headmasters have filed Writ Petitions



and nearly 137 Headmasters obtained favourable orders and the remaining were all pending before this Court and also the Principal Bench of this Court.

6. The learned Standing Counsel appearing for the respondents further submitted that the State Government had taken a Policy decision by issuing G.O.Ms.No.179, School Education Department, dated 06.09.2013 and thereby ordered that the benefits of earlier Government orders will be applicable only to those who rendered service as secondary grade teacher and primary School Headmaster prior to 01.06.1988 and those who were officially promoted as primary School Headmaster on or after 01.06.1988 and before 31.12.1995.

7. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

8. It is settled that to overcome the financial burden, the State Government took policy decision by restricting the benefits of the earlier Government orders and to that effect issued a fresh policy decision in G.O.Ms.No.179, School Education (G2) Department, dated 06.09.2013. It is also well settled law that policy decision cannot be challenged and there cannot be disparity among the persons.

9. In view of the above, the writ petition is disposed of with a direction to the first respondent to consider the case of the petitioner as per G.O.Ms.179, dated 06.09.2013, if he is otherwise eligible and if so, fix the Selection Grade and Special Grade pay to the petitioner in the post of Primary School Head Master by taking into account the petitioner's service rendered as Secondary Grade Teacher prior to 01.06.1988, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/
Assistant Registrar(CS-III)

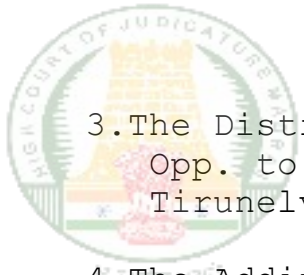
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Sub Assistant Registrar

To

1. The Principal Secretary,
Government of Tamil Nadu
School Education Department,
Fort St. George, Chennai-9.

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



3.The District Elementary Educational Officer,
Opp. to Rathna Theatre,
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4.The Additional Elementary Educational Officer,
Nanguneri Town & Post,
Tirunelveli District,
Tirunelveli.

+1cc to Mr.VENKATASAMY Advocate, SR.No.92186

+1cc to M/s.Special Government Pleader,SR.No.92208

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11.12.2017

KMI

KK/SV/SAR-1/13.06.2018/4P-7C