



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2017

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CORAM:

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

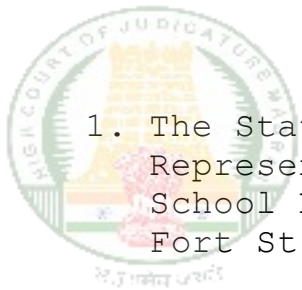
**W.A. (MD) Nos.459 of 2016 and 1036 of 2017
and
C.M.P. (MD) .No.7275 of 2017**

1. The State of Tamil Nadu,
Represented by its Secretary to the Government,
School Education Department,
Fort St.George, Chennai-9.
 2. The Director of Elementary Education,
Chennai.
 3. The District Elementary Educational Officer,
Sivagangai District.
 4. The District Elementary Educational Officer,
Ramanathapuram District. : Appellants / Respondents in
W.A. (MD) .No.1036 of 2017
- A.Marimuthu : Appellant / Writ Petitioner in
W.A. (MD) .No.459 of 2016

Vs.

- 1.PL.Shanmuganathan
- 2.AT.Vellaisamy
- 3.K.Radhakrishnan
- 4.P.Naveenatham
- 5.AT.Tamizharasi
- 6.I.Samathanam
- 7.K.Leelavathi
- 8.V.Blavendran
- 9.K.Ramiah
- 10.O.Swaminathan
- 11.A.Santhigu
- 12.A.Fathima Jebamalai Mary : Respondents/Writ Petitioners
in W.A. (MD) .No.1036 of 2017

(Notice to respondents 1 to 11 may be dispensed with and they are
given up as no relief has claimed against them)



1. The State of Tamil Nadu,
Represented by its Secretary to the Government,
School Education Department,
Fort St.George, Chennai-600 006.
2. The Director of Elementary Education,
College Road, Chennai-600 006.
3. The District Elementary Educational Officer,
Pudhukottai, Pudhukottai District.
4. The Assistant Elementary Educational Officer,
Aranthangi,
Pudhukottai District. : Respondents/ Respondents
in W.A.(MD).No.459 of 2016

PRAYER in W.A.(MD).No.1036 of 2017: Writ Appeal filed under Clause 15 of Letter Patent to set aside the order dated 30.10.2013 in W.P.No.17715 of 2013.

PRAYER in W.A.(MD).No.459 of 2016 : Writ Appeal filed under Clause 15 of Letter Patent to set aside the order dated 17.09.2010 in Writ Petition (MD).No.4640 of 2010.

Prayer in WP(MD). 17715/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to fix the scale of pay to the petitioners as per G.O. Ms. NO. 234, School Education dated 10.09.2009 counting entire length of service as an Elementary School Head Master for selection grade and special grade and confer all consequential benefits and pass such further or other orders.

Prayer in WP(MD). 4640/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus, directing the Respondents herein to sanction and award forthwith Selection Grade to the petitioner in the post of Primary School Headmaster by reckoning and computing the petitioner's service rendered in the cadres of Secondary Grade Teacher (19.01.1976 To 14.10.1988) and Primary School Headmaster (from 15.10.1988 onwards).

For Appellants

: Mr.A.K.Baskara Pandian
Special Government Pleader

For Respondents

: Mr.V.Paneer Selvam

(In W.A.(MD).No.1036 of 2017)



For Appellants
For R.1 to R.4

: Mr.K.Ragutheesh Kumar
: Mr.A.K.Baskarapandian
(In W.A.(MD).No.459 of 2016)

COMMON ORDER

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[Judgment of the Court was made by **G.R.SWAMINATHAN, J.**]

Aggrieved by the dismissal of the Writ Petition by the learned Single Judge, W.A.(MD).No.459 of 2016 has been preferred by the petitioner himself.

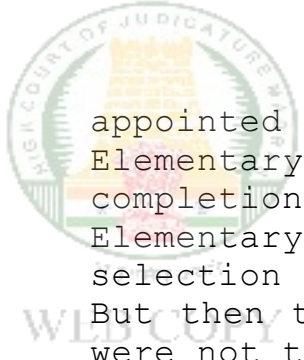
2.The petitioner joined service as Secondary Grade Teacher on 19.01.1976 in the Panchayat Union Primary School, Edaithimangalam, Aranthangi Union, Pudhukottai District. He was placed on selection Grade of Pay with effect from 01.06.1987. He was promoted as Headmaster (Primary School) on 13.10.1988. He was conferred with selection grade on 16.10.1998. The petitioner retired on 31.07.2004. His grievance is that the service rendered by him as Secondary Grade Teacher must also be taken into account and that he ought to have been given Special Grade in the year 1998. This was because the post of Headmaster Primary School and Secondary Grade Teacher were in the same scale of pay till 01.06.1988. The petitioner's Writ Petition was taken up with a batch of Writ Petitions and dismissed on 17.09.2010.

3.The learned counsel appearing for the appellant produced a copy of the order dated 16.11.2011 passed by the Hon'ble Division Bench of this Court in which the impugned order dated 17.09.2010 passed by the learned Single Judge has been set aside. The appellant herein was however not one of the appellants before the Hon'ble Division Bench. But it cannot be disputed that the case on hand will have to be allowed on par with the other appellants in W.A.(MD).Nos.999 to 1045 of 2011 etc batch. Since the case on hand is identical in all respects with the aforesaid Writ Appeals, following the order dated 16.11.2011 passed by the Hon'ble Division Bench of this Court in W.A.(MD).Nos.999 to 1045 of 2011 etc batch, this Writ Appeal also stands allowed. The order passed by the learned Single Judge is set aside. The first respondent is directed to extend the benefit conferred on the appellants in the aforesaid batch of appeals to the present appellant also. Such exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order. W.A.(MD).No.459 of 2016 stands allowed accordingly.

4.The Education Department has filed this Intra Court Appeal questioning the order dated 30.10.2013 made in W.P.(MD). No.17715 of 2013 filed by the private respondents herein.

<https://hcservices.ecourts.gov.in/hcservices/>

5.The case of the private respondents is that they were all



appointed as Secondary Grade Teachers in Panchayat Union Elementary schools and that they were awarded selection grade on completion of ten years. They were thereafter posted as Elementary School Headmaster. The petitioners were granted selection grade as well as the Special Grade in the said post. But then the services put in by them as Secondary Grade Teachers were not taken into account.

6.It is the contention of the private respondents herein that since the period of service as Secondary Grade Teacher and that of Elementary School Headmaster were prior to 01.06.1988, their entire services will have to be counted for selection grade and special grade and that they should be conferred with all consequential benefits.

7.The learned Single Judge by the impugned order directed as follows :-

"5.In view of the above, without expressing any opinion regarding the claim of the petitioners, this writ petition is disposed of, with a direction to the respondents to consider the request of the petitioners for revision of pay as per G.O.Ms.No.234, School Education (G2) Department, dated 10.09.2009 and in the light of the orders of this Court in W.P.No.29644 and 29645 of 2003, dated 21.02.2008 and in W.A.No.979 of 2011, dated 30.09.2011. The petitioners are also directed to submit the copies of the judgments of the Division Bench of this Court, referred to above, along with a copy of this order to the respondents, within a period of fifteen days from the date of receipt of a copy of this order. The respondents shall consider the request of the petitioners and pass appropriate orders within a period of twelve weeks thereafter. No costs."

8.Questioning the same, this Writ Appeal has been filed.

9.We are of the view that filing of the Writ Appeal is not justified and that the learned Judge has rightly directed the respondents to consider the request of the petitioners for revision of pay. No exception can be taken thereto.

10.In this view of the matter, W.A.(MD).No.1036 of 2017 stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

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To

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

2. The Director of Elementary Education,
Chennai.

3. The District Elementary Educational Officer,
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4. The District Elementary Educational Officer,
Ramanathapuram District.

5. The District Elementary Educational Officer,
Pudhukottai, Pudhukottai District.

6. The Assistant Elementary Educational Officer,
Aranthangi, Pudhukottai District.

+ 1 cc TO Mr.V.Panneer Selvam , Advocate in SR No. 89857

+ 1 cc TO Mr.S.Xavier Rajini , Advocate in SR No. 89572

tsg

AE/SV MMS/SAR1/27.06.2018/5P/9C

Judgment made in
W.A. (MD) Nos.1036 of 2017
and 459 of 2016
dated: 24.11.2017