



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 28.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM
W.P. (MD) No.3360 of 2014

WEB COPY

- 1.K.Johnson
- 2.G.Vijayan
- 3.R.Sobitham
- 4.C.Philip
- 5.S.Viswambharan Nair (Died)
- 6.C.Raveendran
- 7.P.N.Christy Joy
- 8.R.Nirmala
- 9.N.Manuvel
- 10.P.Sumathy Amma
- 11.Sudhakumari, S.
- 12.Divya V.S.,
- 13.Muralikrishna V.S.

... Petitioners

*(Petitioners 11 to 13 implead vide
order dated 24.07.2015)

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George, Chennai - 600 009.

2.The Director of School Education,
College Road, Chennai - 600 006.

3.The Chief Educational Officer,
Kanyakumari District,
At Nagercoil

... Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to extend to the petitioners all the benefits of G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993 of the Government of Tamil Nadu, accordingly awarding to them Selection Grade / Special Grade scales of pay, giving to them all arrears of revised pay and revised pension within a time to be fixed by this Court and continuing to pay to them revised pension and all other moneys.

For Petitioners : Mr.K.N.Thampi

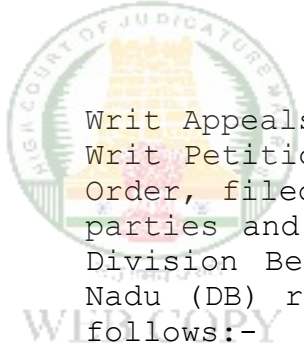
For Respondents: Mr.V.R.Shanmuganathan, SGP.

ORDER

(Order of this Court was made by S.MANIKUMAR, J.)

Earlier, in W.A.(MD).Nos.351 of 2014 etc. batch, on 04.06.2015, we have passed the following orders:-

<https://hcservices.ecourts.gov.in/hcservices/>
"Government have issued G.O.Ms.No.62, Finance (CMPC) Department, dated 09.03.2015. Writ Petitions have been filed for extension of the benefits under the said Government Order. When the same were dismissed,



Writ Appeals were filed. During the pendency of the Writ Appeals, several Writ Petitions, claiming extension of the benefits of the said Government Order, filed were also tagged. After, hearing the learned counsel for the parties and State and after considering a catena of judgments, a Hon'ble Division Bench of this Court, in G.Easwaran V. The Government of Tamil Nadu (DB) reported in 2015 (1) CWC 337, at paragraphs 22 to 24 held as follows:-

"22. In this context, we feel it appropriate to refer to a recent decision of the Supreme Court in State of Uttar Pradesh and others v. Arvind Kumar Srivastava and others, 2015 (1) SCC 347, wherein, the Apex Court dealt with the issue as to the entitlement of benefit of judgment *in rem* with an intention to benefit all similarly situated persons irrespective of whether they had approached the Court or not. It is held therein that when a particular set of employees is given relief by Court, all other identically situated persons should be treated alike by extending the same benefit, since not doing so would amount to discrimination and be violative of Article 14 of the Constitution of India.

23. It is true, implementation of the Government Order in question to the teachers/individuals will cause enormous burden to the State exchequer and it is, certainly, a matter for concern. However, the views taken by the earlier Benches of this Court for extending the benefit to the employees therein are equally applicable to these cases in hand, as these individuals also are similarly placed to those in the earlier litigations. But, the only point to be considered in these cases is, the individuals have approached the Court belatedly, which delay, according to them, was due to the pendency of the decision in those matters. However, as regards the claim of arrears for the period taken by the individuals in these matters in making a belated approach, we are not inclined to pass any orders. Therefore, we leave it open to the State to take a decision as to the period of entitlement with regard to the said issue in accordance with law.

24. Subject to the above observation, following the Division Bench decision of this Court in W.P.No.8747 of 2009, dated 14.07.2009, and also the subsequent decision of the Supreme Court in Special Leave Petition in C.C.No.2746 of 2010, dated 23.04.2010, there Writ Appeals and Writ Petitions are allowed to the extent indicated. No costs. Consequently, the connected M.Ps. are closed."

2. Government have issued G.O.Ms.No.62, Finance (CMPC) Department, dated 09.03.2015 revising scales of pay for Selection Grade/Special Grade, which is reproduced hereunder;-

	Pre-revised scale of pay (01-01-1996)	Revised scale of pay (01-01-2006)
Secondary Grade Teacher	4500-7000	5200-20200 + Grade Pay of Rs.2800
Headmaster Primary School	5300-8300	9300-34800 + Grade pay of Rs.4300

3. After verifying the averments made in the Writ Appeals/Writ Petitions, Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the State, submitted that in all the cases mentioned above (249 cases), Teachers are eligible to the benefits conferred of the said Government Order.



4. In the light of the above, the Government and official respondents are directed to extend the benefits to the Teachers as per the above said Government Order. Re-fixation and disbursement of arrears of salary shall be done, within a period of four months from the date of receipt of a copy of this order, after due verification of the service particulars of the Teachers. All the Writ Petitions/Writ Appeals/Review Application are disposed of with the above directions. No costs. Consequently, connected miscellaneous petitions are closed."

5. Ten retired Secondary Grade teachers, have sought for a Writ of Mandamus, directing the respondents herein, to extend the benefit of G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993, and consequently, prayed for a direction, to award Selection Grade / Special Grade scales-of-pay. They also prayed for revised pay and revised pension.

6. It appears that during pendency of the Writ Petition, Mr.S.Viswambharan Nair / 5th petitioner died. His legal representatives, have filed M.P.(MD)No.1 of 2015, for substitution, as petitioners 11 to 13, in the said Writ Petition. Substitution has been ordered on 24.07.2015 in M.P.(MD)No.1 of 2015. Registry was directed to carryout the amendment and post the writ petition on 27.07.2015. Thus, it is listed today.

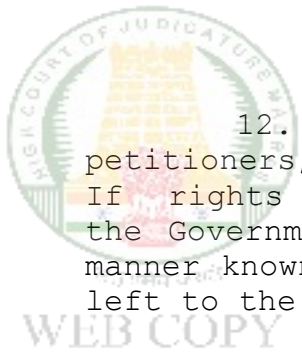
7. On the prayer of extension of the benefits of the above said Government Order, after going through the averments made in the supporting affidavit, Mr.V.R.Shanmuganathan, learned Special Government Pleader fairly submitted that, except petitioners 1, 2 and 10 others are eligible for extension of benefits, in terms of G.O.Ms.No.62, Finance (CMPC) Department, dated 09.03.2015.

8. Insofar as the petitioner P.N.Christy Joy / 7th petitioner is concerned, it is the contention of Mr.K.N.Thambi, learned counsel for the petitioners that in the supporting affidavit and materials on record, there was a typographical error, in that, instead of mentioning the date of grant of selection grade, as 10.08.1995, has been mistakenly typed as 10.08.1996.

9. On the said aspect, Mr.V.R.Shanmuganathan, learned Special Government Pleader submitted that liberty may be given to the respondents to verify the service particulars and, if the above said contention is correct, then, there will not be any difficulty in extending the benefits of G.O.Ms.No.62, Finance (CMPC) Department, dated 09.03.2015 to the petitioner No.7 also. Submission is placed on record.

10. On verification of the particulars and if the 7th petitioner is also covered under G.O.Ms.No.62, Finance (CMPC) Department, dated 09.03.2015 appropriate orders be passed, extending the benefits, within four months.

11. Insofar as the petitioners 1, 2 and 10 are concerned, it is submission of the respondents that even as per the G.O.Ms.No.62, Finance (CMPC) Department, dated 09.03.2015, benefits cannot be extended.



12. At this juncture, Mr.K.N.Thambi, learned counsel for the petitioners, seeks liberty to challenge the above said Government Order. If rights of the above mentioned petitioners are affected, by orders of the Government, it is always open to them to challenge the same in the manner known to law and no Leave need be granted for that purpose. It is left to the discretion of the petitioners 1 , 2 and 10.

13. In the light of the above, the 7th petitioner is permitted to furnish the correct particulars to the educational authorities, for consideration of extending the benefits, in terms of G.O.Ms.No.62, Finance (CMPC) Department, dated 09.03.2015.

14. Except 1, 2, 7 and 10, are stated to be eligible for extension of the benefits, in terms of G.O.Ms.No.62, Finance (CMPC) Department, dated 09.03.2015, therefore the educational authorities are directed to revise the pay and consequently, revise the pension and pass appropriate orders, within four months from the date of receipt of a copy of this order.

15. With the above direction, the Writ Petition is disposed of, by recording the submission of the learned Special Government Pleader, as stated supra. No costs.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. Represented by its
The Government of Tamil Nadu,
Secretary,
Department of School Education,
Fort St.George,
Chennai - 600 009.
2. The Director of School Education,
College Road,
Chennai - 600 006.
3. The Chief Educational Officer,
Kanyakumari District At Nagercoil .

+10ccs to Mr.K.N.Thambi, Advocate SR.No.42056

+1cc to The Special Government Pleader, Madurai. SR.No.42270

W.P. (MD) No.3360 of 2014
28.07.2015

mpk

NS/AN-MP/SAR I/08.09.2015 : 4P/15C