

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Dated : 20.11.2017****CORAM**

THE HON'BLE MR.JUSTICE M.VENUGOPAL
and
THE HON'BLE MR.JUSTICE S.BASKARAN

W.A. (MD) No.1420 of 2017 and
C.M.P. (MD) No.10627 of 2017
in
W.P. (MD) No.10891 of 2016

- 1.The Principal Secretary to Government,
School Education (G1) Department,
Chennai.
 - 2.The Director of Elementary Education,
College Road, Chennai.
 - 3.The District Elementary Education Officer,
Collectorate, Dindigul District,
Dindigul.
 - 4.The Assistant Elementary Education Officer,
Assistant Elementary Education Office,
Sanarpatti,
Dindigul District.
- ... Appellants / Respondents
vs.

M.Natarajan ... Respondent/Writ Petitioner

Prayer: Writ Appeal filed under Clause 15 of the letters patent against the order dated 21.06.2016 made in W.P.(MD) No.10891 of 2016.

Prayer in WP(MD). 10891/ 2016 :

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 extend the benefits of the government orders in G.O.Ms. No. 210 dated 14.08.2009 and G.O.Ms.No. 190 dated 12.07.2010 in favour of the petitioner and further directing the respondents to count the service rendered by the petitioners before 01.06.1988 as Secondary Grade Teacher for the purpose of fixation of selection Grade/Special Grade Scale of pay in service of the petitioner as Middle School Graduate Headmaster and further to grant arrears of pay to the petitioner.



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For Appellants : Mr.T.R.Janarthanan
Additional Government Pleader

For Respondent : Ms.Murugeswari
for
Mr.B.Saravanan

J U D G M E N T

[Judgment of the Court was delivered by **M.VENUGOPAL, J.**]

The Appellants/Respondents have focused the instant Intra-Court Writ Appeal, as against the order, dated 21.06.2016 in W.P.(MD) No.10891 of 2016, passed by the Learned Single Judge.

2.Heard both sides.

3.Earlier, the Learned Single Judge while passing the impugned order in W.P.(MD)No.10891 of 2016, (filed by the Petitioner) at paragraph Nos.3 and 4, had observed the following:-

"3.This Court, in similar circumstances, has passed the following order in W.P.(MD)No.15020 to 15029 of 2012, dated 28.10.2013 which is usefully extracted below:-

"The Petitioners in all these Writ Petitions were working as Secondary Grade Teachers in various schools. Later, they were all promoted as Headmasters of Elementary Schools and Graduate Headmasters of Middle School, on various dates. Ultimately, they attained superannuation on different dates. According to the Petitioners, the length of services rendered by them as Secondary Grade Teacher and Elementary School Headmaster was not taken into account for awarding Selection Grade as well as Special Grade in the post of Middle School Graduate Headmasters. In this regard, according to them, the Government issued G.O.Ms.No.210, School Education (G1) Department, dated 14.08.2009, wherein the Government had directed that the period of service rendered by the Teachers as Secondary Grade Teachers and Elementary School Headmaster, prior to becoming the Graduate Headmaster of Middle School, should also be taken into account for awarding selection and Special Grade of pay. However, the benefit of G.O.Ms.No.210 was given only to 65 persons. Thereafter, a number of Writ Petitions were filed by similarly placed persons and a Learned Single Judge of this Court had dismissed those Writ Petitions. However, on appeal, a Division Bench of this Court in a batch of Writ Appeals in W.A.(MD)Nos.815 of 2010, etc. batch, by order dated 07.07.2011, had issued a direction to the Respondents therein to extend the benefits of G.O.Ms.No.210, School Education (G1) Department, dated



14.08.2009, to the appellants therein. Therefore, according to the Learned Counsel for the Petitioners, the Petitioners are also entitled for the same relief.

2.The Learned Additional Government Pleader appearing for the Respondents would submit that the order of the Division Bench has been complied with in respect of those persons and as far as these Petitioners are concerned, their requests would be considered by the Respondents.

3.I have considered the above submissions.

4.Since the issues involved in these Writ Petitions have already been settled by the Division Bench and since the benefits have also been extended by the Government to similarly placed persons, I am inclined to issue a direction granting the same to the Petitioners also.

5.In the result, these Writ Petitions are allowed with a direction to the Respondents to extend the benefits of G.O.Ms.No.210, School Education (G1) Department, dated 14.08.2009, to the Petitioners also. It is further directed that the consequential order shall be issued by the Government within a period of six months from the date of receipt of a copy of this order. No costs.

4.Following the order of this Court dated 28.10.2013, made in W.P(MD)Nos.15020 to 15029 of 2012, this Writ Petition is also allowed with a direction to the Respondents to extend the benefits of G.O.Ms.No.190, School Education (G1) Department, dated 14.08.2009, to the Petitioner also. Such benefit shall be extended to the Petitioner within a period of six weeks from the date of receipt of a copy of this order."

and ultimately, disposed of the Writ Petition by issuing necessary directions.

4.At the time of hearing of the present Writ Appeal, the Learned Counsel for the Respondent/Writ Petitioner brings it to the notice of this Court that in **W.A. (MD)Nos.361 to 363 and 374 to 382 of 2015**, a Division Bench of this Court, on 11.08.2017, following the Full Bench decision of this Court, between **THE GOVERNMENT OF TAMIL NADU REP. BY ITS SECRETARY, SCHOOL EDUCATION DEPARTMENT, CHENNAI-9 AND OTHERS v. G.ESWARAN AND OTHERS** reported in **2017 (2) MLJ 257**, had dismissed the Writ Appeals and the said decision squarely applies to the facts of the present case on hand.



5. In the instant case, the Respondent/Writ Petitioner was appointed as a Junior Grade Teacher in Emakkalapuram Union Elementary School on 10.10.1980, he was working as Secondary Grade Teacher between 10.10.1990 and 10.10.2000. Subsequently, he was appointed as Tamil Pandit on 01.07.1997 at Panchayat Union Middle School, Sanarpatti, Dindigul District. He was also promoted to the post of Middle School Headmaster, Koova.Kurumbapatti on 01.07.2001. Later, he was reverted to the post of Secondary Grade Teacher on 05.08.2003 as the School was upgraded as High School and Middle School Headmaster post was disbanded and subsequently, he was again promoted to the post of Middle School Headmaster on 16.07.2004 and on attaining the age of superannuation, he was retired from service on 31.10.2005 as Headmaster, Middle School, Veerachinnampatti Union, Dindigul District.

6. The categorical stand of the appellants/Respondents is that the Respondent passed a Government Order in G.O.Ms.No.210, School Education (G1) Department, dated 14.08.2009 to the effect that the length of service in the post of Secondary Grade Teacher and Elementary School Headmaster prior to 01.06.1988 shall be reckoned to provide Special Grade in the post of Middle School Graduate Headmaster in respect of 65 Middle School Graduate Headmasters, who obtained orders from the Tamil Nadu Administrative Tribunal and their scale of pay was fixed in the post of Middle School Graduate Headmaster as Rs.2200-75-2800-100-4000 in terms of recommendation of the Fifth Pay Commission.

7. Apart from that, the similarly placed Middle School Graduate Headmaster, after passing of the Government Order in G.O.Ms.No.210, dated 14.08.2009 filed number of Writ Petitions before this Court and obtained orders for extension of the benefits of the aforesaid Government Order in G.O.Ms.No.210, dated 14.08.2009. The primordial plea of the Respondent/Petitioner is that G.O.Ms.No.190, School Education (G1) Department, dated 12.07.2010 passed by the First Appellant/First Respondent restricting the operation of G.O.Ms.No.210, dated 14.08.2009 to those persons, who had secured orders of the Court on or before 12.07.2010, is untenable in Law. Further, the Respondent/Petitioner pleads that he is also a similarly placed Teacher like that of other teachers and therefore, entitled to the benefits of the Government Order in G.O.Ms.No.210, dated 14.08.2009 and G.O.Ms.No.190, dated 12.07.2010 and therefore, his length of service before 01.06.1988 in the post of Secondary Grade Teacher ought to be reckoned for the purpose of grant of Special Grande in the post of Middle School Graduate Headmaster and that he is entitled to be granted salary in the scale of pay of Rs.2200-75-2800-100-4000 and that the benefits of the G.O.Ms.No.210, dated 14.08.2009 also should be extended to and in his favour.

8. It is not in dispute that subsequently in W.A.Nos.815 of 2010 etc., the judgment was passed on 07.07.2011 on the ground that the cause of action is a continuous one etc., and ultimately it was held that the Government should have extended the benefits of



G.O.Ms.Nos.210 and 234 to all the similarly situated employees.

9.Following the decision of the Full Bench of this Court between **THE GOVERNMENT OF TAMIL NADU REP. BY ITS SECRETARY, SCHOOL EDUCATION DEPARTMENT, CHENNAI-9 AND OTHERS v. G.ESWARAN AND OTHERS** (Rev. Application No.227 of 2015 etc., W.A.Nos.1744 of 2015, etc., W.P.Nos.29774 of 2016, etc., and Contempt Petition Nos.1545 of 2016, etc., batch, dated 09.12.2016), reported in **2017 (2) MLJ 257**, also keeping in mind the common Judgment of the Division Bench of this Court in **W.A.(MD)Nos.361 to 363 and 374 to 382 of 2015**, dated 11.08.2017, this Court, considering the issue(s) centering around the present Writ Appeal, which is squarely covered by the Full Bench decision of this Court, dismisses the present Writ Appeal to prevent an aberration of Justice and in furtherance of substantial cause of Justice. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar(T & P)

/True Copy/

Sub Assistant Registrar

To:

- 1.The Secretary to Government of Tamil Nadu,
Education Department,
Fort St. George, Chennai - 9.
- 2.The Director of Elementary Education,
Chepauk, Chennai - 600 009.
- 3.The District Elementary Educational Officer,
Dindigul District.
- 4.The Assistant Elementary Educational Officer,
Shanarpatti,
Dindigul Taluk and District.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 88640

+1cc to Mr.B.SARAVANAN Advocate in SR. No. 88572

RJ2

JS/KP/SAR.1/15.12.2017/5P-7C

W.A. (MD) No.1420 of 2017

and

C.M.P. (MD) No.10627 of 2017

20.11.2017