

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.1746 of 2015
and M.P.No.1 of 2015

1. The State of Tamil Nadu
rep by its Secretary,
Education Department,
Secretariat, Chennai - 600 009
 2. The Director of School Education,
(Higher Secondary),
College Road,
Chennai-600 006
 3. The Chief Educational Officer,
Ootacamund, The Nilgiris District
- Appellants/Respondent
- vs-
- Tmt.Mallammal Respondent/Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent against the order passed in W.P No.20996 of 2012 dated 03.08.2012. Writ Petition filed Under Article 226 of the Constitution of India for the issue of a writ of Certiorarified Mandamus to call for the records Pertaining to the order passed by the first respondent vide his proceedings No. Letter No.39631/M1/2011, dated 15/4/2011 respectively and quash the same as illegal arbitrary, discriminatory, being violative of rules and principles of natural justice and thereby direct the respondents to extend the benefits of G.O.Ms.No.216 Finance (Pay Commission) Department, dated 22.3.1993 and accordingly award Selection Grade /Special Grade scale of pay w.e.f. 01.06.1988 and revise pensionary benefits and pay arrears to the petitioners.

For Appellants : Mr.K.Karthikeyan
Government Advocate

For Respondent : No appearance

J U D G M E N T

[Judgment of the Court was delivered by
K.K. SASIDHARAN, J.]

The claim made by the respondent, on the strength of the Government Order in G.O.(Ms) No.216 Finance (P.C) Department dated 22.03.1993, was allowed by the learned Single Judge by Order dated 03.08.2012 in W.P.No.20996 of 2012. Feeling aggrieved against the same, the present intracourt appeal has been filed.

2. The learned Government Advocate appearing for the appellants, by placing reliance on the Full Bench decision of this Court in Government of Tamil nadu vs G. Easwaran and Others reported in (2017) 2 MLJ 257, submitted that the issue raised in this writ appeal is covered by the said decision.

3. The Full Bench, in the order cited supra, considered the scope and ambit of the Government Order in G.O.(Ms) No.216 Finance (P.C) Department dated 22.03.1993. Paragraph-38 of the order reads thus:

"38. Today, when the matters are taken up for consideration, keeping in mind the financial strain that would fall on the State exchequer in the event of implementation of the G.O., and in order to give a quietus to the issue, we feel it appropriate to fix the date as 01.03.2017 from which date onwards, the Government shall calculate and revise the pension and family pension (without arrears) based on the revised scales of pay by implementing the G.O., for which, the learned Advocate General and the learned counsels appearing for the Teachers have fairly acceded to the same. Accordingly, we pass the following:

i) The Government is directed to implement the G.O.Ms.No.216, dated 22.3.1993 for the period between 1.6.1988 and 31.12.1995, on and from 1.3.2017 onwards in respect of all the Secondary Grade Teachers of High/Higher Secondary Schools

including the Special Teachers who attained Selection grade/Special Grade during the above said period, on par with the pay scale of Primary School Headmasters;

ii) Consequently, the Government shall calculate and revise the pension of those who retired from service and revise the family pension in respect of those who expired, based on the revised scales of pay in terms of G.O.Ms.No.216, dated 22.3.1993 payable on and from 1.3.2017;

iii) It is made clear that the beneficiaries under this order, are not entitled to the arrears of revised pay scales;

iv) It is further made clear that the benefits as directed above, shall be extended to the parties who are before this Court alone and and no fresh Writ Petitions would be entertained on and from 09.12.2016;

v) The Government is directed to expedite the process of calculating and fixing the revised pension and family pension and we do hope that the Government will complete the same as early as possible without making any further delay;

vi) All the matters which are at SR stage and listed before this Court are also ordered and disposed of by this common order and consequently, connected MPs thereof, are ordered;"

4. In view of the above decision, the respondent is entitled to the benefit of the Government Order only to the extent recognised by the Full Bench.

5. The writ appeal is disposed of by following the order of the Full Bench in Government of Tamil Nadu vs G. Easwaran and Others reported in (2017) 2 MLJ 257. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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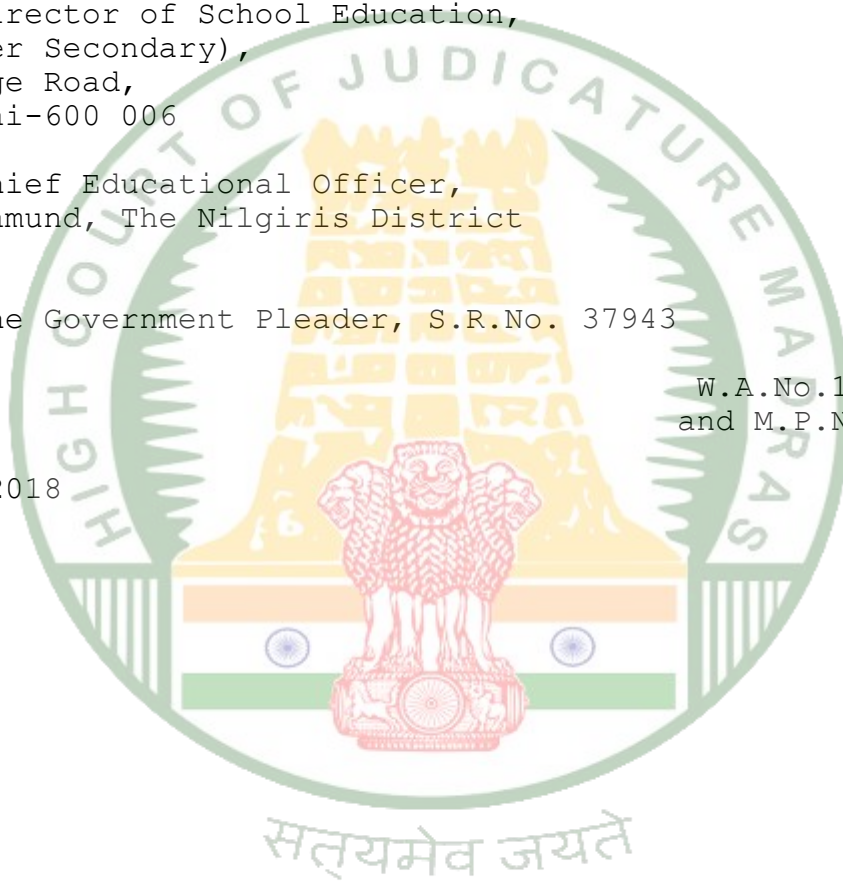
To

1. The Secretary to Government,
State of Tamil Nadu
Education Department,
Fort.St. George,
Chennai - 600 009
2. The Director of School Education,
(Higher Secondary),
College Road,
Chennai-600 006
3. The Chief Educational Officer,
Ootacamund, The Nilgiris District

+lcc to the Government Pleader, S.R.No. 37943

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VG II(CO)
BM 02/07/2018



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