IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18-01-2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

Review Application No.195 of 2018
in
W.P.No.422 of 2016

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

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

3.The Additional Assistant Elementary Education
Officer,
Sathyamangalam,
Erode District. ... Appellants/Respondents

vs

M.Rangasamy ... Respondent/Petitioner

Prayer: This Review Application is preferred under Order 47, Rule 1, r/w Section 114 of Civil Procedure Code, against the order of this Court dated 19.6.2018 made in WP No.422 of 2016.

Prayer in W.P.No.422 of 2016:

Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to treat the petitioner herein as a Secondary Grade Teacher from date of joining on 16.08.1966 and as Headmaster of Elementary School from 01.06.1971 and to award the Special Grade Elementary School Headmaster pay scale with effect from 01.06.1988 to the petitioner herein till the date of his retirement i.e 31.03.2000 and consequently direct the Respondents herein to disperse the revision of pay within an appropriate amount of time and to re-fix all monetary benefits including pensionary benefits on par with revised pay scale of the Petitioner.

For Appellants: Mr.K.Karthikeyan,
Government Advocate.
NA for Respondent

O R D E R

The present Review Application is preferred against the order passed in WP No.422 of 2016 dated 19.6.2018.

2. The main ground raised in the Review Application is that the respondent-Teacher is not entitled to get the benefit of G.O.Ms. No.216, Finance Department, dated 23.3.1993 from his initial appointment in the year 1966, since from the year 1966 to 1971, the respondent held Higher Grade Post.

3. The learned Government Advocate, appearing on behalf of the appellants, states that the appointment Secondary Grade Teacher post retrospectively from the date of his initial appointment in the Higher Grade Teacher post is not maintainable and therefore, the claim of the respondent-Teacher for retrospective appointment in the absence of sanctioned Secondary Grade Teacher Post, at the time of his initial appointment, is untenable and the same cannot be granted.

4. The other grounds raised by the appellants on merits deserve no consideration in view of the fact that the scope of the Review Application is limited. The Review Application can be entertained if there is an error apparent on record or any apparent perversity in the order passed by this Court.

5. This Court has passed an order on 19.6.2018 in WP No.422 of 2016, stating that the directions issued by the Hon'ble Full Bench of this Court in Review Application No.227 of 2015 etc., W.A.No.1744 of 2015, etc., W.P.No.29774 of 2016 etc., and Contempt Petition No.1545 of 2016 etc., batch on 9.12.2016, shall be followed in respect of the case of the appellants also. If at all, the appellants/State is of an opinion that the respondent-Teacher is not eligible as per the directions issued by the Full Bench, then they are at liberty to pass an order, setting out the reasons and communicate the same to the respondent-Teacher. Contrarily, they cannot re-adjudicate the entire merits before this Court by way of a Review Application.

6. This Court passed an order, not considering the merits and the demerits of the case of the appellants and this Court directed the appellants to follow the judgment of the

Hon'ble Full Bench with reference to G.O.Ms.No.216, Finance Department, dated 23.3.1993.

7. In this view of the matter, the appellants are at liberty to take a decision and pass orders with reference to the judgment of the Hon'ble Full Bench of this Court, cited in the judgment dated 19.6.2018 in WP No.422 of 2016. However, the present Review Application cannot be entertained in view of the fact that the merits raised in the Review Application cannot be adjudicated and accordingly, the Review Application stands disposed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Svn
To

1.The Secretary to Government,
State of Tamil Nadu,
Education Department,
Fort St. George,
Chennai-600 009.

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

3.The Additional Assistant Elementary Education
Officer,
Sathyamangalam,
Erode District.

+1cc to the Government Pleader Sr.4007

Rev.Appln. No.195 of 2018

srg 05/02/2019