

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 03.09.2018

CORAM
THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

W.P.No.13702 of 2003

A.Singarayar

...Petitioner

-Vs-

- 1.The Government of India
rep. by its Secretary to Govt.,
School Education,
Fort St., George,
Chennai 600 009.
- 2.The Director of Elementary Education,
College Road,
Chennai 600 006.
- 3.The District Elementary Educational Officer,
Sivagangai.
- 4.The Correspondent,
R.C.Middle School,
Susaiappan Koil,
Kalayar Koil,
Sivagangai District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to award Selection Grade to the petitioner to the post of Middle School Head Master by taking into account the service rendered by the petitioner as Selection Grade Secondary Grade Assistant with all consequential benefits.

For Petitioner : No Appearance

For Respondents 1 to 3 : Mr.D.Venkatachalam, AGP

O R D E R

The prayer sought for herein is for Writ of Mandamus directing the respondents to award Selection Grade to the petitioner to the post of Middle School Head Master by taking into account the service rendered by the petitioner as Selection Grade Secondary Grade Assistant with all consequential benefits.

2. The short facts which are to be noticed for the disposal of this writ petition are as follows:

The petitioner was appointed as Secondary Grade Assistant in the fourth respondent school with effect from 01.04.1974. His service was regularised with effect from 01.04.1984 and he was given selection grade with effect from 01.04.1994 and he was awarded for special grade in the post of Secondary Grade Assistant. While he was working as Secondary Grade Assistant (Special grade) with effect from 07.06.1994, he was promoted as Middle School Head Master and his pay was fixed in the scale of pay of Rs.1640-2900.

3. In this context, it is the claim of the petitioner that, the Government since have issued Government Order in G.O.Ms.No.210, P & A.R. Department, dated 11.03.1987, which envisages that the service rendered in the selection grade in the lower post can be calculated for awarding the selection grade in the promotion post provided, selection grade of lower post and the ordinary scale of the promotion post were identical.

4. In this context, the petitioner seems to have sought for conferment of Selection Grade or Special Grade in the subsequent promotion post also, by taking into account the Selection Grade and Special Grade conferred on him, while he was serving as Secondary Grade Assistant by extending the benefit given under G.O.Ms.No.210 P & A.R. Department, dated 11.03.1987 and in this regard, since the petitioner's request has not been considered, he has approached this Court with the aforesaid prayer.

5. When the case was called, no one was present for the petitioner and therefore, since counter affidavit has been filed and the learned Additional Government Pleader appearing for the respondents has made submissions, this writ petition is disposed of on merits.

6. Mr.D.Venkatachalam, learned Additional Government Pleader appearing for the respondents by relying upon the counter affidavit filed by the third respondent has submitted that, the petitioner was given admittedly selection grade in the Secondary Grade Assistant Post and subsequently he has also been conferred the Special Grade. Subsequently, on acquiring qualification, he was given promotion as Middle School Head Master. However, the benefit of G.O.Ms.No.210, P & AR Department, dated 11.03.1987 cannot be conferred on the petitioner, for the reason that till 31.05.1988, the pay scale of the Secondary Grade Assistant and the Elementary School Head Master was one and the same. Further, from 01.06.1988 onwards, the post of Primary School Head Master were made as promotion post with a different scale of pay and therefore, the import of

G.O.Ms.No.210, P & A.R. Department, dated 11.03.1987, cannot be made applicable to the petitioner.

7. I have considered the said submissions made by the learned Additional Government Pleader for the respondents and have perused the materials placed before this Court. As has been rightly pointed out by the learned Additional Government Pleader appearing for the respondents whether the benefit conferred under G.O.Ms.No.210 P & A.R. Department, dated 11.03.1987, can be extended to the petitioner is the only question to be decided herein.

8. In this context, the third respondent in his counter has stated the following:

"It is submitted that The petitioner, had initially been appointed on 1.4.74 as Regular Secondary grade Assistant Teacher in R.C.Middle School, Pulichanmai under the Control of the R.C.Arehdiocese of Madurai including Sivagangai District. He is liable to be transferred within the above Diocese he was awarded Selection Grade with effect from 01.04.1984 in the post of Secondary grade Assistant Again he was granted special grade in the same post with effect from 01.04.1994. He was transferred to R.C.Middle School Susaiapparpattinam on 01.07.77.

At the time of his first appointment he was in possession of S.S.L.C. (Eligible) 1966 and senior grade certificate (April 1971). he passed B.Ed., degree during April' 1983. he has also passed M.A.degree during May'1987. He was promoted as B.Ed., grade Middle School H.M. consequent on his acquiring higher qualification on 07.06.1994, and his pay was fixed on his promotion in the scale of pay of Rs.1640-6--2600-75-2900 at Rs.1940+30p.P with effect from 01.7.94 (As per his option on the date of his next increment in the lower post).

4.It is submitted that in G.O.Ms.No.210, P and A.R.(Per.S.) Department, dated 11.03.1987 the Government have directed that the Service in the Selection Grade of the lower post shall be counted for the selection grade in the promoted post provided that the selection grade scale of the lower post is identical to the ordinary grade of the higher post and that the concession be allowed only at the first level promotion. The concession was given notional effect form 01.10.1994

with monetary benefit from 01.04.1986. Based on the above G.O., the Primary School, Head Masters are awarded selection grade in the H.M.Post taking into account the services rendered as selection grade/Special grade Assistant since scales of pay applicable to both the primary school H.M. and selection Grade Secondary grade Assistant are identical (from 01.06.88 to 31.12.95 Rs.1400-50-2300-60-2600 and from 1.1.96 Rs.5300-150-8000). But the scales of pay of the Selection grade Assistant and the ordinary grade middle school H.M.(Rs.1640-60-2600-75-2900) are not identical with effect from 01.06.88. The posts of Primary School H.M. were made promotion post only from 01.06.88 with separate higher scale of pay. Prior to 01.06.88 the scales of pay of the Secondary grade Assistant and primary school H.M.'s were one and the same. the Secondary grade teachers who were put in charge of the H.M. Posts were allowed only duty allowance/Special pay for the additional duties. Since the scale of pay of the ordinary grade middle school H.M. and that of the selection grade/Special grade Assistant are not identical the benefit of counting the services rendered in the selection grade of the lower post are not allowed to middle school H.M. There is no provision in the Rules and Government orders issued in the course of time to reckon the services rendered in the lesser scale of pay of the lower post for the purpose of awarding selection grade in the higher post i.e., in the higher scale."

9. In view of the said position that the post of Primary School Head Master has been made as promotional post from 01.06.1988 onwards and pursuant to that, whatever the benefit should have been conferred on the petitioner had already been conferred where the petitioner had been given Selection Grade and Special Grade in the year 1984 and 1994 and thereafter, by acquiring higher qualifications then, since the petitioner had been promoted as Head Master in the Middle School, the benefit should be conferred on the teacher in the higher post as has been contemplated in G.O.Ms.No.210, P & A.R. Department, dated 11.03.1987, cannot be conferred on the petitioner since the condition that the pay scale of the lower grade, selection grade post and the ordinary grade in the promotional post must be one and the same. Since admittedly,

the pay between the Secondary Grade Assistant and the Primary School Head Master was a different one from 01.06.1988 as from then onwards, the said post which became the promotional post, it cannot be construed that both the post was carrying on the same scale of pay therefore, the sufficient ingredients as contemplated under G.O.Ms.No.210 P & A.R. Department, dated 11.03.1987, since had not been conferred upon the petitioner, the benefit sought for on him cannot be granted to him. Therefore, his request in this regard cannot be directed to considered by way of mandamus in this writ petition. Hence, this writ petition is liable to be rejected.

10. In the result, this writ petition fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To,

1.The Secretary to Government,
Government of India
School Education,
Fort St., George,
Chennai 600 009.

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

3.The District Elementary Educational Officer,
Sivagangai.

+lcc to the Government Pleader, S.R.No.60894

W.P.No.13702 of 2003

MG(CO)

rrs 24/04/2019