

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 02.01.2018****CORAM :****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****W.P (MD) No.19240 of 2014****WEB COPY**

A.Chandra Mohan

... Petitioner

Vs.

1. The Secretary to Government,
School Education Department,
Fort St. George, Chennai.
2. The Director of Elementary Education,
College Road, Chennai-6.
3. The District Elementary Educational Officer,
Karur, Karur District.
4. The Assistant Elementary Educational Officer,
Thanthoni Union, Karur District.

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 3 and 4 herein to pay a Personal Pay of sum of Rs.750/- with notional effect from 01.01.2006 and with monetary benefit from 01.01.2011 with attended benefits as per G.O.Ms.No.23, Finance (Pay Cell) Department, dated 12.01.2011 to the petitioner herein.

For Petitioner : Mr.T.Pon Ramkumar

For Respondents : Mr.S.Kumar,
Addl. Government Pleader**O R D E R**

The writ petitioner was appointed as Second Grade Teacher in the Panchayat Union Elementary School, Nandanoor, Aravakurichi Union, Karur District on 28.09.2004 on a consolidated pay of Rs.3,000/-. His service was regularized with effect from 01.06.2006. He was promoted as B.T. Assistant (English) on 02.06.2010.

2.The grievance of the writ petitioner is that the benefit of grant of Special Allowance under G.O.Ms.No.270, Finance (Pay Cell) Department dated 26.08.2010 and G.O.Ms.No.23, Finance (Pay Cell) Department dated 12.01.2011 was not notionally granted to him with effect from 01.06.2006 for the purpose of fixation of his pay as done in the case of Mrs.Preetha, who was his junior in the post of



Second Grade Teacher and promoted as B.T.Assistant on 28.12.2011 who is now getting more pay compared to the writ petitioner.

3.The writ petitioner's contention is that such a pay anomaly had arisen on account of omission to apply the aforesaid Government Orders in favour of the writ petitioner. On the other hand, Thiru.S.Kumar, learned Additional Government Pleader appearing for the respondents would contend that there is no merit in the prayer sought for by the writ petitioner. This is because, on the date of issuance of aforesaid G.Os., the writ petitioner was promoted from the post of Secondary Grade Teacher to the post of B.T.Assistant (English).

4.I went through the contents of the counter filed by the third respondent. Following the implementation of the sixth pay commission's recommendations, there arose certain pay anomalies. The Government of Tamil Nadu constituted a One Man Commission vide G.O.Ms.No.444, Finance (PC) Department dated 09.09.2009. The Secondary Grade Teachers had been agitating that they had been dealt with unfairly. Therefore, the said One Man Commission made a recommendation for grant of Special Allowance of Rs.500/- per month to them. The said recommendation was accepted by the Government and the Government issued G.O.Ms.No.270, Finance (Pay Cell) Department dated 26.08.2010. Still, the Secondary Grade Teachers were not satisfied. Therefore, this amount was enhanced to Rs.750/-.

5.It was made clear that both the Government Orders shall take notional effect from 01.01.2006 and monetary effect from 01.08.2010 and 01.01.2011 respectively. It is seen that the writ petitioner herein was promoted from the post of Secondary Grade Teacher to the post of B.T.Assistant on 02.06.2010 itself. In other words, he ceased to be a Secondary Grade Teacher from the said date. He was working as a B.T Assistant when G.O.Ms.No.270, dated 26.08.2010 was issued.

6.In the counter affidavit, it has been conceded that the writ petitioner was given Special Allowance of Rs.500/- on notional basis till the date of his promotion as B.T.Assistant. In other words, the writ petitioner was given the benefit of G.O.Ms.No.270, dated 26.08.2010. In the counter affidavit, a stand is taken to the effect that the writ petitioner is not entitled to claim benefit in terms of G.O.Ms.No.23, dated 12.01.2011, since he was not a Secondary Grade Teacher by then. This is clearly self contradictory. G.O.Ms.Nos.270 dated 26.08.2010 and G.O.Ms.No.23, dated 12.01.2011 cannot be separated from one another.

<https://hcservices.courts.gov.in/hcservices/> 7. In G.O.Ms.No.270, dated 26.08.2010, a sum of Rs.500/- has been granted as Special Allowance. In G.O.Ms.No.23, dated



12.01.2011, the said sum of Rs.500/- was enhanced to Rs.750/- and the department thought it fit to apply G.O.Ms.No.270 dated 26.08.2010 in favour of the writ petitioner. It cannot therefore be heard to say that it will not apply G.O.Ms.No.23, dated 12.01.2011.

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8. In this view of the matter, I have no hesitation to hold that the writ petitioner is entitled to Personal Pay of Rs.750/- on notional basis with effect from 01.01.2006 till 02.06.2010, when he was promoted as B.T.Assistant. The question of granting monetary benefit in terms of the said Government Orders will not arise because, he was no longer a Secondary Grade Teacher by then. The respondents 3 and 4 are directed to include the sum of Rs.750/- in the pay of the writ petitioner as Secondary Grade Teacher with notional effect from 01.01.2006 till 02.06.2010 when he was promoted as B.T.Assistant.

9. This writ petition is partly allowed. No costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
School Education Department,
Fort St. George, Chennai.
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4. The Assistant Elementary Educational Officer,
Thanthoni Union, Karur District.

+1cc to The Spl.Government Pleader Sr.No.40127
+1cc to Mr.T.Pon Ramkumar, Advocate Sr.No.40030

SKM

VB/SV/MMS/SAR2/01.02.2018/3P/7C

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