



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P(MD)No. 5103 of 2011

T.Alagirisami ... Petitioner

Vs.

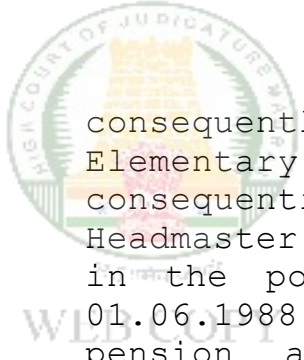
1. The Director of Elementary Education,
College Road, Chennai - 600 006.
2. The Deputy Director of Elementary Education (Administration)
College Road, Chennai - 600 006.
3. The Assistant Elementary Educational Officer,
Vathrariruppu Taluk,
Virudhunagar District.
4. The Secretary,
RC Elementary School,
Kadaneri Post,
Vathrayiruppu Taluk, Virudhunagar District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of a Certiorarified Mandamus or any other appropriate writ calling for the records respondents in connection with proceedings of the 2nd respondent in OM No.23548/M3/2010 and to quash order dated 27.08.2010 made therein and consequently to direct the respondents to treat the petitioner as Elementary school Headmaster as on 01.06.1988 and to award the consequential higher pay in the post of Elementary School Headmaster w.e.f 01.06.1988 and selection grade and special grade in the post of Elementary School Headmaster with effect from 01.06.1988 and all other benefits including all arrears of pay, pension and other benefits as allowable under G.O.Ms.1381 Education dated 05.10.1990.

For Petitioner	: Mr.T.M.Hariharan
For Respondents 1 to 3	: Mr.M.Muthu, Additional Government Pleader,
For Respondent 4	: No appearance

ORDER

The relief sought for in this writ petition is to quash the proceedings passed by the second respondent dated 27.08.2010 and



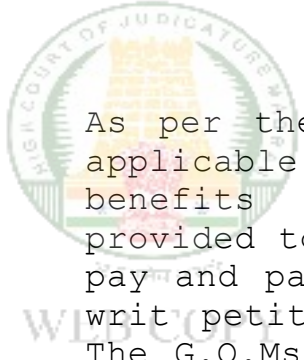
consequently to direct the respondents to treat the petitioner as Elementary school Headmaster as on 01.06.1988 and to award the consequential higher pay in the post of Elementary School Headmaster w.e.f 01.06.1988 and selection grade and special grade in the post of Elementary School Headmaster with effect from 01.06.1988 and all other benefits including all arrears of pay, pension and other benefits as allowable under G.O.Ms.1381 Education dated 05.10.1990.

2.The learned Counsel appearing for the writ petitioner made submissions that the writ petitioner was employed in the 5th respondent RC Middle School. The writ petitioner was employed as a Secondary Grade Teacher in the Middle School under the management until 02.06.1999. From 03.06.1999 onwards he was working as a Headmaster of the 5th respondent Elementary School and retired from service on attaining the age of superannuation on 31.08.2000.

3.The learned counsel appearing on behalf of the writ petitioner made submissions that the Government issued G.O.MS.No.1381 (Education) dated 05.10.1990. As per the said order, the Government directed the Headmasters of Primary Schools under the Government Local bodies and all kinds of management who were in position as on 01.06.1988 to be awarded selection grade and special grade in the revised scales on or after 01.06.1988 computing the period of service rendered as Secondary Grade Teacher as well as Primary School Headmaster prior to 01.06.1988. As the post of the Headmaster carries higher scale of pay above that of the Secondary Grade Teacher those who were promoted as Headmaster after 01.06.1988 shall be allowed for fixation of pay in the post of Headmaster as provided under the Fundamental Rule 22 B. This apart the learned Counsel for the petitioner referred G.O.Ms.No.202, dated 24.09.2008.

4.The learned Additional Government Pleader referred to paragraph number 8 of the Counter Affidavit, which reads as follows:

"8. Further is it submitted that, though the petitioner claimed benefits under G.O.Ms.No.1381 dated 05.10.1990 another G.O.Ms.No.202 dated 24.09.2008 had specified that the benefits are applicable only to the Secondary Grade Teachers who worked in the Panchayat union Schools only. Admitted by the petitioner was employed with the 5th respondent schools which are governed by the private management. Therefore he is not entitled to get the benefits as per G.O.Ms.No.202 dated 24.09.2009 and the same alone is intimated by the 2nd respondent through their proceedings in OM.No.23548/M3/2010 dated 27.08.2010 and the claim of the petitioner is repudiated by the respondent."



As per the submission, the benefit of the G.O.Ms.No.202 is not applicable to the writ petitioner. The question arises whether the benefits granted in G.O.Ms.No.1381 dated 05.10.1990 can be provided to the writ petitioner in respect of revision of scale of pay and payment of arrears. This Court is of an opinion that the writ petitioner had already retired from service on 31.08.2000. The G.O.Ms.No.1381 dated 05.10.1990 was issued 10 years prior the date of retirement. The writ petitioner has not taken appropriate steps during the relevant point of time. During the year 1990, the petitioner was very much in service, then he would have requested the authorities for the benefits, if any is applicable under the particular terms and conditions of the said Government Order. He retired from service and thereafter he made representations only on 15.07.2000, after a lapse of 9 years from the date of retirement. However, the second respondent issued an order of rejection on 27.08.2010. The writ petition was filed on 26.04.2011.

5.Thus, this Court is of an opinion that the writ petitioner has slept over his right, if any exists and therefore this claim cannot be considered after a lapse of so many years. It is not, as if the petitioner can claim the service benefits beyond a reasonable period of time. Admittedly the writ petitioner retired from service on 31.08.2000 and he seeks benefits of Government order, which was issued on 05.10.1990. The writ petition was filed in the year 1991. There has been a consistent and constant delay in pursuing the remedy. As such this Court is not inclined to consider the claim of the writ petitioner. Further the writ petitioner is now aged about 75 years and this Court feels that he should peacefully get his pensionary benefits and lead his life, and no right has been established.

6.In the result the writ petition stands dismissed. However, there shall be no orders as to costs.

Sd/-

Assistant Registrar(w)

/True copy/

Sub Assistant Registrar

To

1. The Director of Elementary Education,
College Road, Chennai - 600 006.
2. The Deputy Director of Elementary Education (Administration)
College Road, Chennai - 600 006.

<https://hccs.eas.in/hccs/secure/> Service Secretary, Elementary Educational Officer,
Vathrariruppu Taluk,
Virudhunagar District.



4. The Secretary,
RC Elementary School,
Kadaneri Post,
Vathrayiruppu Taluk,
Virudhunagar District.

+1cc to Mr.T.M.Hariharan, Advocate Sr.No.45430
+1cc to Spl.Government Pleader Sr.No.45953

DSK

VB/SKN/RSK/SAR4/22.02.2018/4P/7C

ORDER MADE IN
W.P(MD)No. 5103 of 2011
31.01.2018