

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2019

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.11607 of 2009

K.Nallathambi

...Petitioner

Versus

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

2. The Chief Educational Officer,
Erode, Erode District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 2nd respondent in O.Mu.No.8387/A4/2008 dated 22.12.2008 and quash the same and direct the respondents to fix the pay of the petitioner in the selection grade scale of Tamil Pandit w.e.f. 8.10.1992 and grant him all consequential benefits.

For Petitioner : Mr.P.Mohan Raj

For Respondents : Mr.K.Ravi Kumar,
1 and 2 Addl. Govt. Pleader

O R D E R

The Writ Petition has been filed, challenging the correctness of the impugned Order of the 2nd respondent in O.Mu.No.8387/A4/2008 dated 22.12.2008, quash the same and for further direction, directing the respondents to fix the pay of the petitioner in the selection grade scale of Tamil Pandit w.e.f. 8.10.1992 and grant him all consequential benefits.

2. Learned Counsel appearing for the petitioner submitted that the petitioner, who was initially appointed as Secondary Grade Teacher on 18.9.1972, was awarded with Selection Grade in the same post on 08.10.1982. Subsequently, he was promoted as Tamil Pandit on 30.11.1988 and he was awarded with selection grade in the said post on 01.06.1998. Thereafter, he retired from service on 30.9.2003 and again he was re-employed till the

end of the academic year i.e. from 01.10.2003 to 31.5.2004.

3. The learned Counsel for the petitioner further submitted that at the time of his promotion as Tamil Pandit on 30.11.1988, he was drawing pay in the selection grade scale of Secondary Grade Teacher and at that time, the selection grade scale of pay of Secondary Grade Teacher and the ordinary grade scale of Tamil Pandit were the same. Therefore, as per the Government Order in G.O.Ms.No.238, School Education (E2) Department, dated 26.6.1998, the service in the selection grade in the Secondary Grade Teacher shall be counted for the award of selection grade in Tamil Pandit whereas the impugned order says that the Selection Grade Scale of Pay granted to the petitioner in the post of Secondary Grade Teacher and the Ordinary Grade Scale of Pay granted to him in the post of Tamil Pandit are not identical. Therefore, the grievance of the petitioner is that the impugned order has been passed without properly appreciating the orders of the Government in G.O.Ms.No.238, School Education (E2) Department, dated 26.6.1998. Hence, the same is liable to be set aside by allowing the present Writ Petition, it is pleaded.

4. A detailed Counter Affidavit has been filed by the 2nd respondent.

5. Learned Additional Government Pleader appearing for the respondents submitted that the petitioner was originally appointed as Secondary Grade Teacher on 18.9.1972 and thereafter, he was promoted as Tamil Pandit on 30.11.1988. He was awarded with Selection Grade in the category of Secondary Grade Teacher on 08.10.1982. Thereafter, he applied to the 2nd respondent through the Headmaster, Government Girls Higher Secondary School, Kunnathur by letter dated 25.7.2008 to sanction Selection Grade in the category of Tamil Pandit counting the services rendered in the post of Selection Grade Secondary Grade Teacher and Ordinary Grade of Tamil Pandit w.e.f. 08.10.1992. The 2nd respondent rejected the grievance of the petitioner by his letter dated 22.12.2008 since the time scales of Selection Grade Secondary Grade and Ordinary Grade of Tamil Pandit are not identical up to 31.5.1988 and only from 01.06.1988 onwards, the time scale of Selection Grade Secondary Grade Teacher and the Ordinary Grade of Tamil Pandit are identical and since there is no rule for considering the representation of the petitioner, he was informed by the 2nd respondent in detail. Not satisfied with the same, the petitioner has filed the present Writ Petition. Therefore, the same is liable to be dismissed.

6. I also fully agree with the reasonings given by the learned Additional Government Pleader for the respondents for the following two reasons. Firstly, after re-employment, the

petitioner retired from service on 31.5.2004. Thereafter, he has slept over the matter for more than four years and after awakening from the sleep, he has made a representation dated 21.7.2008 to the 2nd respondent. Therefore, on that score of huge delay, the Writ Petition is liable to be dismissed. Secondly, after his retirement from service on 30.9.2003 as Tamil Pandit on reaching the age of superannuation, however, he was given reemployment till the end of the academic year i.e. from 01.10.2003 to 31.5.2004. When the petitioner admitted that he was promoted from the post of Secondary Grade Teacher to the post of Tamil Pandit on 30.11.1988 and also awarded with selection grade in the said post on 1.6.1998, it is not known how he is entitled to get the further benefit of selection grade in the post of Tamil Pandit from 1992. In fact, the provisions of Selection Grade and Special Grade are framed only for the purpose of giving incentive or benefit to those teachers or Government Servants not having any further promotion, making it clear that such of those teachers/Government Servants who are not having further promotion are entitled to get some incentive at every ten years of service i.e. Selection grade on completion of initial 10 years of service in the same post and another incentive of Special Grade on completion of 20 years of service in the same post. But, in this case, since the petitioner having been promoted from the Selection Grade Secondary Grade Teacher as Tamil Pandit on 30.11.1988, the prayer in the writ petition cannot be considered. Further, the time scales of Selection Grade Secondary Grade and Ordinary Grade of Tamil Pandit are not identical up to 31.5.1988 and only from 01.06.1988 onwards, the time scale of Selection Grade, Secondary Grade and the Ordinary Grade of Tamil Pandit are identical. In view of all the above, there is no merit in the Writ Petition.

7. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs.

-s/d-

Assistant Registrar (CCC)

True Copy

Sub-Assistant Registrar

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To

1. The Secretary to the Government,
Government of Tamil Nadu,
School Education Department,
Fort St. Geroge, Chennai-600 009.

2. The Chief Educational Officer,
Erode, Erode District.

+1 CC to The Govt. Pleader sr 11381.

+1 CC to Mr.P.Rajendran, advocate sr 10665.

W.P.No.11607/2009

PA (CO)
SP(04/03/2019)



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