

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.06.2019

CORAM:

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

WP.No.17482 of 2010

1.A.Parthasarathy

2. N.Elumalai

3. R.Alamelu

4. S.G.Saroja

5. R.Dakshayani Petitioners

Vs

1. The Government of Tamil Nadu,
Rep by its Secretary,
School Education (G-1) Department,
Fort St.George, Chennai - 600009.

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

3. The Commissioner,
Chennai Corporation,
Ripon Buildings, Chennai 600 003. Respondents

Prayer:

Writ Petition has been filed Article 226 of the Constitution of India seeking a Writ of Mandamus, directing the respondents to award Special Grade in Middle School Head - Master Post with effect from 1.6.1988 onwards to the petitioners by counting their earlier services in Secondary Grade Teacher category as well as Middle School Head - Master category and consequentially fix the pay scale of the petitioners at Rs.2200-75-2800-100-4000 and grant all other benefits.

For Petitioner : Mr.S.Senthil Nathan

For Respondents : Mr.K.Karthikeyan
Government Advocate for R1&2
Mr.G.Anantharam for R3

O R D E R

The writ petition is filed seeking for a direction to the respondents to award Special Grade to the petitioner in Middle School Head - Master Post with effect from 1.6.1988 onwards to the petitioners by counting their earlier services in Secondary Grade Teacher category as well as Middle School Head - Master category and consequentially fix the pay scale of the petitioners at Rs.2200-75-2800-100-4000 and grant all other benefits.

2. The learned counsel for the petitioner states that, all the petitioners retired from Chennai Corporation as School Teachers. The petitioner No.1 namely A.Parthasarathy joined as Secondary Grade Teacher on 25.08.1964 and promoted as B.T.Head Master in Middle School from 24.10.1990. Petitioner No.2 namely N.Elumalai joined as Secondary Grade Teacher on 26.09.1967 and promoted as B.T.Head Master in Middle School from 12.06.1982. Petitioner namely R.Alamelu joined as Secondary Grade Teacher on 22.08.1962 and promoted as B.T.Head Master in Middle School from 04.11.1975. Petitioner namely S.G.Saroja joined as Secondary Grade Teacher on 25.08.1964 and promoted as B.T.Head Master in Middle School from 12.02.1982. Petitioner namely R.Dhakshyani joined the services as Primary School Teacher on 05.08.1958 and promoted as secondary grade teacher with effect from 01.11.1959.

3. The learned counsel for the petitioner submits that, all the petitioners herein have rendered service as Secondary Grade Teacher and B.T.Head Master and the service should be taken in to account for grant of Special Grade in the post of Middle School Head Master in the pay scale at Rs.2200-75-2800-100-4000 for that scale should be granted with effect from 01.06.1988, as recommended by the 5th pay commission in pursuance of the G.O.Ms.No.210, School Education Department (G-1) dated 14.08.2009.

4. It is also stated that, some teachers who worked as Middle School Head Masters had approached the Tamil Nadu Administrative Tribunal seeking a direction to award selection / special grade in Middle School Head Masters post with effect from 01.06.1988 onwards counting their earlier service in secondary grade category as well as Primary school Head Master category and Middle school Head Master category and award the pay scale at Rs.2200/-. Those applications were allowed by the Tribunal. This Hon'ble Court has also confirmed the same. The orders of the Hon'ble Court have become final. The first respondent issued G.O.Ms.No.210, dated 14.08.2009 allowing the claim of 65 Middle School Head Masters. In the result their total services were counted as on

01.06.1988, Special grade was awarded and the same was fixed at Rs.2200-75-2800-100-4000. However, the said G.O restricted the benefit of awarding special grade and pay fixation in respect of only 65 Head Masters. The other similarly placed persons were left out. In those circumstances, the petitioners herein made representations to the respondents herein to consider their claim. But however the respondents have not considered the claim of the petitioner.

5. The learned Government Advocate does not disputed the contentions of the petitioner that the petitioners are identical to those persons who have got benefit by G.O.Ms.No.210, as quoted hereunder:-

"GOVERNMENT OF TAMIL NADU

ABSTRACT

Elementary Education - Panchayat Union Schools - Awarding of Special Grade and Fixation of pay in the scale of pay of Rs.2200- 75-2800-100-4000 to 65 Middle School Graduate Headmasters counting their service rendered on 01.06.88 in the Post of Secondary Grade Teacher and Primary School Head Master, subject to the outcome of the orders of the Tamil Nadu Administrative Tribunal/High Court - Orders issued.

SCHOOL EDUCATION (G1) DEPARTMENT

G.O.Ms.No.210

Dated:

14.08.2009

Thiruvalluvar-Aandu 2040 Adi-29.

Read:-

1. Orders of the Tamil Nadu Administrative Tribunal, Chennai - 600 104, dated 17.04.2002 in O.A.Nos.3521, 3528, 3530, 3532, 3540, 3541, 3543,3547,3550, 3552, 3781, 3782, 3783, 3784, 3785, 3786, 3787, 3788, 3789, 3829, 3830, 3831, 3832, 3965, 7706, 7714, 8736, 8740, 8742, 8743, 8746, 8996, 8999, 9002, 9003, 9494, 9495, 9498, 9499, 9875, 9883, and 9885/1997; 857, 858, 914, 1292, 1350, 1458, 1580, 1696, 2927, 2934, 2935, 3374, 3375, 4620, 4888, 6027 and 6415/1998; 472, 966 and 2181/1999 and 6378 and 7304/2000.

2. Orders of the High Court, Madras in W.P.No.29626/2005 dated 15.09.2005 and W.P.No.29624/2005 dated 15.09.2005.

3. M.P.No.1/2008 and W.A.S.R.No.79248/2007 dated 23.04.2008 of the High Court, Madras.

4. Writ Appeal No.233/2008 and M.P.No.1/2008 dated 21.04.2008 of the High Court, Madras.

5. The Director of Elementary Education Letter Na. Ka. No.25368/L1/2008 dated 28.11.2008 and

ORDER:-

Based on the recommendation of the 5th Pay Commission, 65 Middle School Graduate Headmasters filed Original Application before the Tamil Nadu Administrative Tribunal praying award of Special Grade and Fixation of pay in the scale of pay of Rs.2200- 75-2800-100-4000 counting their service rendered prior to 01.06.88 (upto 31.05.1988) in the post of Secondary Grade Teachers and Middle School Headmasters. Pursuant to the orders of the Tribunal in the above case and the order of the High Court, Madras in the cases filed by certain Teachers for implementation of the Tribunal order, the Director of Elementary Education requested appropriate orders as per the 5th Pay Commission recommendations, grant of Special Grade and Fixation of pay in the scale of pay of Rs.2200-75-2800-100-4000 from 01.06.88 to the 65 Middle School Graduate Headmasters only by counting their service rendered prior to 01.06.88 (up to 31.05.1988) in the post of Secondary Grade Teacher and Primary School Headmaster.

2. The Government have carefully examined the proposal of the Director of Elementary Education in Para 1 above, and permit him/her to award, Special Grade as per the recommendation of the 5th Pay Commission and fix the pay in the scale of pay Rs.2200- 75-2800-100-4000 from 01.06.88 to the 65 Middle School graduate Headmasters, who obtained Judgment from the Tribunal, by counting their service rendered prior to 01.06.88 in the post of Secondary Grade Teacher and Primary School Headmaster (upto 31.05.1988).

3. This order is issued with the concurrence of the Finance Department vide its U.O.No.218/JS (APA)/Education .II/2009 dated 12.08.2008. (By Order of the Governor) M.Kutralingam Principal Secretary to Government."

6. The learned Government Advocate also submitted that they are entitled to the benefit of G.O.Ms.No.242, Higher Education (B1) Department, dated 18.12.2012, as quoted hereunder:-

"ABSTRACT

PUBLIC SERVICES - Equivalency of educational qualification - Pursing Three years Diploma Course (or) Two years Industrial Training Instruction after completion of Xth standard and continuing three years degree programme Pursuing Three Years Diploma and continuing in second year degree programme as Lateral Entry pursuing Diploma in Teacher Education after completion of XI std (Old SSL.C) and continuing in Three degree programme - Equivalent to personal pursuing degree course after completion of XII std - in

appointment in Public Services/ Promotion - Orders issued.

G.O.Ms No. 242 Higher Education (B1) Dept. Dated:
18.12.2012

Nandana, Markazhi 3

Thiruvalluvar Andu 2043

Read:

1. Government letter No.8849/B1/2010-3 Dated: 6.10.2010"
2. Secretary, Tamil Nadu Public Service Commission D.O. Letter No.6354 / 2010 / 5.12.2012
3. Secretary, i .N.P.S.C., letter No. 6304 / (6tfl.LD.gj.2fli-1) / 2012 dated: 8.12.2012

ORDER:

In the Government letter 1st read above it is stated that many individual are sending representation that of those who admitted latterly in 2nd year B.E., degree after completion of 3 year Diploma course are considered on par with the students who completed B.E degree programme after passing Xllth std., and also considered for the selection of Assistant Engineers. Further those who admitted in 3 year degree programme in Open University after completion Diploma Course after passing X std., and now in Service are also sending representation to Government for regularisation. to issue a clear Government Order as to whether those who studied X std., Higher Secondary (+2) and Degree course in Open University for the purpose of employment, Secretary, TNPSC have been requested to consult the Equivalence Committee and sent suitable proposal to Government.

2. In the letter 2 & 3 read above Secretary, T.N.P.S.C., has stated that the matter was placed in the 37th meeting of Equivalence Committee and following resolutions are adopted and has requested to the suitable Government orders.

S.No	Description		Resolution adopted
1.	Resolution No. 2 Persons, studied 3 years diploma course and completed degree course in Open University. / Distance Education / Colleges after passing x std., (10 + 3+3)		Equivalent
2.	Persons studied 2 years Diploma in Teacher Education and completed ^Degree courses in Open University after passing XI th std., (Old SSLC)	Equivalence to those studying in the order of X std.,	Equivalent
3.	Persons studied 2 year Industrial Training Instruction (I.T.I) and completed degree courses in Open University after passing Xth std., Resolution No. 4	Higher Secondary (+2) and degree course and considering for appointment/promotion.	
4.	Public Services - Educational Qualification - X std., + 3 years Diploma Courses and two year degree course (Lateral entry) considered equivalent to X std., XII std., and 3 years degree course for appointment / promotion		Equivalent

3. The above recommendation and as per Resolution of the 37th Equivalence , Committee meeting of the T.N.P.S.C., was carefully perused by Government and accepted for those categories

i Degree obtained thro' Open University Stream after completing 3 years Diploma course after passing Xth std., (10+3+3)

i

ii Degree obtained thro' Open University stream after completion of Two year Teacher Training conducted by Director of Government Examination

after passing XI std., (OLD SSLC) (11 +2+3)

iii) Degree obtained thro' Distance Education Stream after completion of Two Years Industrial Training Instruction (I.T.I.) after, passing X std., 10+2+3)

iv) and Completion of Two Year Lateral Entry after completion of three year Diploma courses after passing X std., (10+3+2) as studied as above shall-be considered equivalent those who studied in the order of X th" std., XII th Std., and three year degree course for seeking employment also promotion.

(By order of the Governor)

Sd /-

Apoorva Varma

Secretary to Government."

7. It is further to be noted that the issue raised in the writ petition is squarely covered by the Division Bench of this Court in WA.No.34 of 2017 etc., in the case of Secretary to Government, School Education Department Vs. S.Stanislaus. In view of the statement of the learned Government Advocate and in view of the judgment of the Division Bench of this Court, the writ petition is allowed. No Costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

Pkn

To

1. The Secretary,
Government of Tamil Nadu,
School Education (G-1) Department,
Fort St.George, Chennai - 600009.
 2. The Director of Elementary Education,
College Road, Nungambakkam, Chennai - 006.
 3. The Commissioner,
Chennai Corporation,
Ripon Buildings, Chennai 600 003.
- +5ccs to Mr.Senthil nathan , Advocate SR.No. 51405
+1 cc to Government Pleader Sr.No. 52325

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