

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No. 6922 of 2019

S.Mani

.. Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary
Department of School Education
Fort.St.George
Chennai - 600 009.
 2. The Director of Elementary Education
DPI Compound, College Road
Chennai - 600 006.
 3. The District Elementary Education Officer
The District Elementary Education Office
Madhuranthagam, Kancheepuram District
 4. The Block Education Officer
Madhuranthagam
Kancheepuram District
- .. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents to extend the benefits granted to Similarly Placed Persons by the G.O.(Ms) No. 234, School Education (G2) Department dated 10.09.2009 and to pay the arrears of pay based on the revised scale for the period from 21.07.1997 to 31.05.2010 and revise the pension arrear accordingly and pass such further or other orders as this Court may deem fit and proper.

For Petitioner : M/s.A.Arulmozhi
For Respondents : Mr.A.Rajaperumal
Additional Government Pleader

O R D E R

The present writ petition is filed by the writ petitioner, seeking re-fixation of his pay by extending the benefits granted in G.O.Ms.No.234, School Education, dated 10.9.2009.

2. On perusal of the said G.O.Ms.No.234, School Education, dated 10.9.2009, this Court is able to find that a benefit of re-fixation of pay to the retired Primary School Headmasters, who served prior to 1.6.1988, was granted. In the said Government Order, the benefit of revision of pay was extended to 61 retired Primary School Headmasters. Thus, the Government Order was issued in respect of 61 retired Primary School Headmasters by taking into account the services rendered by them prior to 1.6.1988. In fact, the Special Grade Pay was extended to them by calculating the services rendered prior to 1.6.1988.

3. The issue was earlier considered by the Hon'ble Division Bench of this Court and the Division Bench of this Court passed orders on 29.10.2011 in WP No.24700 of 2009 and granted the benefits accorded to 61 retired Primary School Headmasters in G.O.Ms.No.234, School Education, dated 10.9.2009. Following the same, the learned single Judge also passed an order subsequently on 11.11.2014 in WP No.25001 of 2012, granting Special Grade in the post of Primary School Headmasters. But, thereafter, this Court has elaborately considered all the judgments and the grounds in batch of writ petitions decided on 15.12.2016 in WP Nos.26459 of 2010 etc. batch. This Court has considered all the grounds raised in these writ petitions elaborately as well as a judgment of the Division Bench of this Court dated 7.7.2011 in WA No.815 of 2010 etc. batch, relying on the legal principles laid down by the Supreme Court of India in the said batch of writ petitions, this Court has passed the following order:-

"29. Applying the above decision rendered by the Honourable Supreme Court to this case, the petitioners in these batch of cases have knowledge about the benefits conferred by the Government in favour of similarly placed persons like them, however, they have not chosen to approach this Court immediately, rather, they have filed the present writ petitions belatedly, conveniently after their retirement. In such view of the matter, I am of the view that the petitioners are not entitled to succeed and the writ petitions are liable to be dismissed on the ground of delay and laches. This conclusion can be fortified from the decision of the Honourable Supreme Court in the case of (Ramachandra Shankar Deodhar and others vs. The State of Maharashtra and others) (1974) 1 SCC 317 which was relied on by the learned single Judge of this Court in his order dated 17.09.2014 wherein it was held that there was more than ten or twelve years in filing the petition since the accrual of the cause of complaint, and such delay was sufficient to disentitle the petitioners to any relief under

Article 32 of The Constitution of India. In the present case also, the petitioners have approached this Court much after their retirement and some of the petitioners have even died. The petitioners have not any justifiable reason as to why they did not approach this Court at the earliest point of time to seek the relief which are sought for in these batch of writ petition when cause of action for them to file such writ petitions was very much subsisting at the relevant point of time. Therefore, I find force in the argument of the learned Advocate General appearing for the official respondents that the petitioners are fence-sitters/watchers and they were waiting for the litigation engineered at the instance of similarly placed persons to conclude before they file the present batch of writ petitions.

30. In some of the writ petitions, which are filed challenging the orders passed by the Principal Accountant General of Tamil Nadu, it is seen that the office of the Principal Accountant General has rejected the proposal sent by the concerned educational officers for extending the benefits of GO Ms. No.234 dated 10.09.2009 in favour of the petitioners on the ground that the concerned petitioner is not one of the beneficiaries of the order passed by the Government in his or her favour or the petitioner has not obtained any orders from the competent Court. However, it was stated that if any Government Order issued in favour of the individual petitioner, the same shall be forwarded for consideration. Therefore, the Principal Accountant General has rightly refused to extend the benefits of GO Ms. No.234 dated 10.09.2009 in the absence of any order passed by the Government in favour of the petitioners and it does not call for any interference by this Court.

31. For all the above reasons, I hold that the petitioners are not entitled for the relief sought for in these writ petitions. Hence, all the writ petitions fail and accordingly they are dismissed. No costs. Consequently, connected miscellaneous petitions are closed."

4. In view of the considered judgment passed in the batch of writ petitions, cited supra, this Court is not inclined to consider the grounds raised in this writ petition.

5. Accordingly, the writ petition stands dismissed.
However, there shall be no order as to costs.

Sd/-

Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

Kmm

To

1. The Secretary
The State of Tamil Nadu
Department of School Education
Fort.St.George
Chennai - 600 009.
2. The Director of Elementary Education
DPI Compound, College Road
Chennai - 600 006.
3. The District Elementary Education Officer
The District Elementary Education Office
Madhuranthagam, Kancheepuram District
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Madhuranthagam
Kancheepuram District

+1cc to the Government Pleader, S.R.No. 24695

MP (CO)
GN (26/04/2019)

W.P.No.6922 of 2019

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