

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.09.2019

CORAM

THE HONOURABLE MR. JUSTICE SUBRAMONIUM PRASAD

Cont.P.No.1729 of 2018
in
WP No.21031 of 2012

P.Chellaian .. Petitioner

Versus

Mr.Pradeep Yadav, I.A.S.,
 Secretary,
 The State of Tamil Nadu,
 Education Department,
 Fort St. George,
 Chennai 600 009. .. Respondent

Contempt petition filed under section 11 of the
 Contempt of Courts Act to punish the respondent for
 willfully disobeying the order of this Hon'ble Court made
 in WP No.21031 of 2012 dated 29.07.2015.

For Petitioner : M/s.A.R.Nixon
 For Respondent : Mr.P.Raja,
 Government Advocate

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ORDER

This Contempt petition has been filed
 alleging non-compliance of the order passed by this Court
 in WP No.21031 of 2012 dated 29.07.2015. The operative
 portion of the order, which reads thus:

<https://hcservices.ecourts.gov.in/hcservice9/10>. In view of the aforesaid narration of
 facts, the petitioner is entitled to Selection

Grade / Special Grade pay in the post of Middle School Headmaster with effect from the date of promotion as Middle School Headmaster.

11. For the aforesaid reasons, the impugned order is set aside and the petitioner shall be granted Selection Grade / Special Grade pay in the post of Middle School Headmaster, by counting the service rendered as Secondary Grade Teacher / Primary School Headmaster, from the date of his promotion to the post of same already, with all monetary benefits and the pensionary benefits with arrears within a period of four weeks from the date of receipt of a copy of this order, in the light of the aforesaid direction."

2. An appeal was filed by the State against an order passed in a batch of writ petitions in W.A.No.34 of 2017., etc batch. This Court by a Common judgment dated 03.01.2019, has observed as follows:

"Though Mr.C.Munusamy, learned Special Government Pleader (Education) states that long after their reinstatement, respondents have approached this Court and that a huge amount has to be paid, that cannot be a ground to deprive the respondents of their entitlement to selection grade / special grade to pay which the appellants ought to have paid. Courts have held that in the matter of fixation of pay and pension, there is a continuing cause and for the above said reason, we are not inclined to accept the said contention. Following the above decision, all the writ appeals are dismissed. The appellants are directed to grant the benefits of G.O.Ms.No.210, School

Education (G1) Department, dated 14.08.2009, to all the respondents and fix their pay in Selection Grade / Special Grade in the post of Middle School Headmaster, by counting the service rendered as Secondary Grade Teacher/ Primary School Headmaster / Elementary School Headmaster, from the date of their promotion to the post of Middle School Headmaster, if they were not given the same already, with all monetary benefits and the pensionary benefits with arrears till the date of his death. Though, Mr.C.Munusamy, learned Special Government Pleader (Education) sought four months time to complete the exercise of revising the pay in the Selection Grade / Special Grade to the respondents, consequently revise the pension / family pension, considering the long period of litigation, which the retired employees / members of the family of the retired employees have to undergo, litigation expenses etc., we, deem it fit, to direct the appellants, to fix the pay in the Selection Grade / Special Grade, within a period of four weeks, from the date of receipt of a copy of this judgment and consequently, the appellants are further directed to revise the pension / family pension, and disburse both arrears of salary and differential pension, within a period of eight weeks, thereafter. Consequently, connected miscellaneous petitions are closed."

3. The order of this Court in the present writ petition, was also taken up for in Appeal in Writ Appeal No.299 of 2019 and the Division Bench vide its Judgment dated 03.01.2019, has observed as follows :-

" 4. Since the issue has already been decided by the Division Bench, there is no need for a further adjudication in the present intra-Court appeals and writ petitions. We therefore dispose of the intra-Court appeals and connected writ petitions on board in terms of the judgment dated 3 January, 2019 in Writ Appeal No.34 of 2017 etc batch.

5. We direct the State to revise the pension / family pension of the concerned employees and disburse arrears of salary and differential pension depending upon the facts of each case and taking into account the directions given by the Division Bench in the judgment dated 3 January, 2019 in W.A.No.34 of 2017 etc batch. No costs. Connected miscellaneous petitions are closed."

3. The State Government by its order dated 14.08.2019 has rejected the claim petition vide letter No.14916/Thou.Thaa(1)/2019-2 dated 14.08.2019, by stating that the petitioner was promoted as a middle school Head Master on 09.03.1989 and he cannot get the benefit from 01.06.1988.

5. This Court by an order dated 16.09.2019 had directed the petitioner to produce the service records to ascertain whether the petitioner has been promoted as a

Middle School Head Master on 01.06.1988.

6. The learned counsel appearing for the respondent /State Government had produced the Service book before this Court, in which, there is an endorsement, which reads thus :-

"Consequent to the promotion as Middle School Head Master eligible pay fixed at Rs.1850/- with effect from 09.03.1989"

The learned counsel appearing for the respondent therefore submitted that the petitioner was promoted as a Middle School Head Master with effect from 09.03.1989. This endorsement is sufficient enough to dismiss the contempt petition in writ petition.

7. This Contempt petition is closed. Liberty is granted to the petitioner to file a fresh writ petition, to substantiate his claim that he was appointed as Middle School Head Master on 01.06.1988.

सत्यमेव जयते

SD/-

ASSISTANT REGISTRAR (COMM. CASES)

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//Certified to be true copy//

Dated at Madras this the day of 2019.

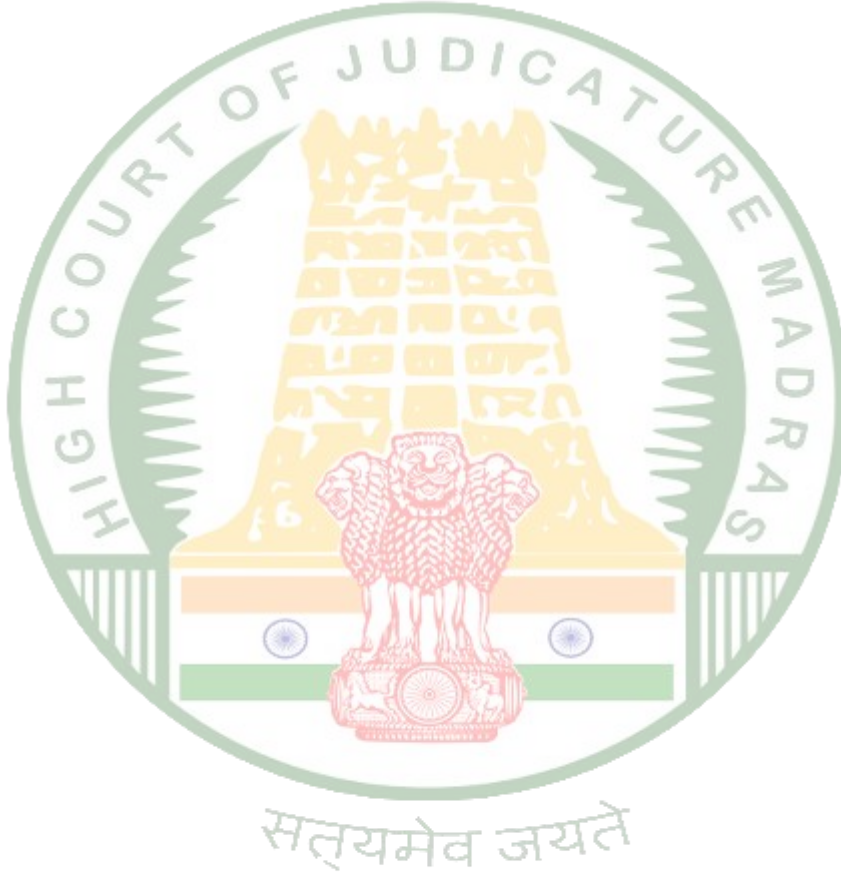
COURT OFFICER (O.S.)

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SMI/25/10/2019

To

Secretary,
The State of Tamil Nadu,
Education Department,
Fort St. George,
Chennai 600 009.



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