

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W.A. No. 1001 of 2016
and
C.M.P. No. 13096 of 2016

1. The State of Tamil Nadu,
Represented by the Secretary to Government,
School Education Department,
Secretariat,
Fort St. George,
Chennai - 600 009.
 2. The Director of School Education,
(Higher Secondary),
College Road, Nungambakkam
Chennai - 600 006.
 4. The Chief Educational Officer,
Salem District,
Salem. Appellants/Respondents
- vs-
- A. Nallasamy Respondent/Petitioner

PRAYER:- Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 19.04.2012 in W.P. No. 10849 of 2012. Petition filed under Article 226 of the Constitution of India issue a writ of certiorariifed mandamus to to call for all the relevant records pertaining to the order passed by the 1st respondent herein vide his proceedings No. Letter No.39631/M1/2011 dated 4.7.11 and quash the same as illegal arbitrary unreasonable being violative of rules and principles of natural justice and thereby direct the respondents to Extend the benefits of G.O.Ms.No.216 Finance (PC) Department dated 22.3.93 and accordingly award Selection/Special Grade scale of pay with effect from 1.6.88 and revise Pensionary benefits and pay arrears to the petitioner.

For Appellants : Mr. C. Munusamy,
Special Government Pleader

For Respondent : Mr. V. Thirupathi

J U D G M E N T

(Judgment of the Court was delivered by P.D. AUDIKESAVALU, J.)

The intra-Court Appeal arises out of the order dated 19.04.2012 in W.P. No. 10849 of 2012 passed by the Learned Judge of this Court. The parties are hereinafter referred to as per their description in the Writ Petition for the sake of convenience.

2. The Petitioners filed W.P. No. 10849 of 2012 challenging letter No. 39631/M1/2011 dated 04.07.2011 and has sought for consequential direction to the Respondents to extend the benefits of G.O. Ms. No. 216, Finance (Pay Cell) Department dated 22.03.1993 and accordingly award Selection/Special Grade scale of pay with effect from 01.06.1998 and revise pensionary benefits and pay arrears to the Petitioner. The Learned Judge, who heard the Writ Petition, by order dated 19.04.2012, following the order of the Division Bench of this Court in W.P. No. 8747 of 2009 dated 14.07.2009 confirmed by the Hon'ble Supreme Court of India in C.C. No. 2746 of 2010 dated 23.04.2010 and certain other orders, allowed the Writ Petition.

3. We have heard Mr. C. Munusamy, Learned Special Government Pleader appearing on behalf of the Respondents, Mr. V. Thirupathi, Learned Counsel appearing for the Petitioner and perused the materials placed on record, apart from the pleadings of the parties.

4. It is accepted by the Learned Counsel for both sides that subsequently on noticing divergence of views between various Division Benches of this Court on the same question, the matter was referred to the Full Bench of this Court, in which after considering the submissions of all the parties, it has been held in Government of Tamil Nadu -vs- G. Eswaran [(2017) 2 MLJ 257 (FB)] as follows:-

"38. Today, when the matters are taken up for consideration, keeping in mind the financial strain that would fall on the State exchequer in the event of implementation of the G.O., and in order to give a quietus to the issue, we feel it appropriate to fix the date as 01.03.2017 from which date onwards, the

Government shall calculate and revise the pension and family pension (without arrears) based on the revised scales of pay by implementing the G.O., for which, the learned Advocate General and the learned counsels appearing for the Teachers have fairly acceded to the same. Accordingly, we pass the following:

- i) The Government is directed to implement the G.O. Ms. No. 216, dated 22.03.1993 for the period between 01.06.1988 and 31.12.1995, on and from 01.03.2017 onwards in respect of all the Secondary Grade Teachers of High/Higher Secondary Schools including the Special Teachers who attained Selection grade/Special Grade during the above said period, on par with the pay scale of Primary School Headmasters;
- ii) Consequently, the Government shall calculate and revise the pension of those who retired from service and revise the family pension in respect of those who expired, based on the revised scales of pay in terms of G.O. Ms. No. 216, dated 22.03.1993 payable on and from 01.03.2017;
- iii) It is made clear that the beneficiaries under this order, are not entitled to the arrears of revised pay scales;
- iv) It is further made clear that the benefits as directed above, shall be extended to the parties who are before this Court alone and no fresh Writ Petitions would be entertained on and from 09.12.2016;
- v) The Government is directed to expedite the process of calculating and fixing the revised pension and family pension and we do hope that the Government will complete the same as early as possible without making any further delay;
- vi) All the matters which are at SR stage and listed before this Court are also ordered and disposed of by this common order and consequently, connected MPs thereof, are ordered;"

It is seen from the records that W.P. No. 10849 of 2012 has been filed before 12.04.2012, that is, the date of the order passed by the Full Bench of this Court.

5. In view of the change of the legal position after passing of the order impugned in the Writ Appeal, we hold that the Petitioner in W.P. No. 10849 of 2012 is entitled to the same benefits in terms of the orders passed by the Full Bench of this Court in Government of Tamil Nadu -vs- G. Eswaran [(2017) 2 MLJ 257 (FB)].

6. In the result, the Writ Appeal is allowed in part and the order dated 19.04.2012 in W.P. No. 10849 of 2012 passed by

the Learned Judge is modified on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

vjt

To

1. The Secretary to the Government of Tamil Nadu,
School Education Department,
Secretariat,
Fort St. George,
Chennai - 600 009.
2. The Director of School Education,
(Higher Secondary),
College Road, Nungambakkam
Chennai - 600 006.
3. The Chief Educational Officer,
Salem District, Salem.

+1cc to Mr.V.Thirupathi, Advocate SR.No.36405

W.A. No. 1001 of 2016

KK(CO)
GMY(15/04/2019)

सत्यमेव जयते

WEB COPY