

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.19942 of 2018
and WMP.23376 of 2018

A.Amaladoss

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
rep. by Secretary to the Government,
School Education Department,
Fort St. George, Chennai 600 009.
 - 2.The Director of Elementary Education,
College Road, Chennai 600 006.
 - 3.The District Elementary Educational Officer,
Coonoor, The Nilgiris District.
 - 4.The Assistant Elementary Educational Officer,
Kothagiri Range,
Kothagiri, The Nilgiris District.
- ... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 4th respondent issued in Na.Ka.No.395/A2/2015 dated 18.05.2015, the 4th respondent and quash the same and issue a direction to the respondents to count the service rendered as Secondary Grade Teacher which carried same scale of pay prior to 1.6.1988 to that of Primary School Headmaster and Selection grade service in the post of Secondary Grade Teacher after 1.6.1988 along with service rendered in the post of primary School Headmaster after 1.6.1988 and fix the pay of petitioner in selection grade scale of pay in the post of Primary School Headmaster and grant arrears of pay and arrears of pension as per the G.O.Ms.No.207 School Education (G2) Department dated 30.09.2008.

For Petitioner : Mr.R.Saseetharan

For Respondents: Mr.N.Annalakshmi
Government Advocate

O R D E R

This writ petition has been filed to quash the proceedings of the 4th respondent issued in Na.Ka.No.395/A2/2015 dated 18.05.2015 and for consequential directions.

2.The petitioner was appointed as Higher Grade Teacher on 12.02.1970 in CSI Primary School, Burnside, Kotharigi Range, The Nilgiris District. The said school is a private aided Minority Education Institution. Subsequently, the petitioner's post was upgraded as Secondary Grade Teacher in 01.09.1985, when the post of Primary School Headmaster and Secondary Grade teacher carried the same scale of pay till 01.06.1988. Thereafter, the post of Primary School Headmaster became promotional post on awarding higher scale of pay from 01.06.1988, than the post of secondary grade teacher, as per recommendations of the Tamilnadu 5th pay commission. Subsequently, the petitioner was promoted as Primary School Headmaster on 01.06.2001 in the same school. The said promotion of the petitioner was duly approved by District Elementary Educational Officer by his proceedings in Na.Ka.No.2973/A2/2001 dated 31.10.2001. The petitioner retired from service on 29.02.2004 and the petitioner was granted selection grade scale of pay in the post of Secondary Grade Teacher on 01.09.1995 and his pay in the post of Primary School Headmaster was fixed in the scale of pay of Rs.5300-8300, which is ordinary grade scale of pay of Primary Headmaster post. According to the petitioner, the Government orders in relation to pay fixation in respect of Government teachers applies to the teachers like petitioner working in the aided schools.

3.Therefore, the petitioner made representation on 31.03.2015 to fix his pay in selection grade scale of pay of Primary School Headmaster by counting his Secondary Grade Teacher's service rendered before 01.06.1988 as well as the service rendered in selection grade Secondary Grade Teacher's service from 01.09.1995 and fix his selection Grade primary School Headmaster pay on 01.01.2003 and then fix his last drawn pay and then grant arrears of pay and send pensionary proposal to the Accountant General for sanction of pension and arrears of pension. The petitioner also made representation to the Accountant General on 31.03.2015. The Accountant General by proceedings dated 30.09.2015, has informed to approach the department for pay fixation. The Assistant Elementary Education Office Kothagiri Panchayat Union, Nilgiris District, has rejected his claim by stating that only for Primary School Headmasters, who are hold the post on 01.06.2008, the selection and special grade scale of pay in the post of Primary School Headmaster by counting the service rendered before 01.06.1988, as secondary grade teacher and Primary School Headmaster by the proceedings dated 21.09.2010 and 27.10.2010 of the Director of

Elementary Education. It is further stated that for Primary School Headmasters retired before 01.08.2005, pay fixation in selection and special grade scale of pay could not be given as per the G.O.Ms.No.207 dated 30.09.2008. In the said proceedings, the Assistant Elementary Officer, the G.O.Ms.No.207 dated 30.09.2008 has been wrongly referred to as G.O.Ms.No.207 dated 30.04.2003. As against the said proceedings, the petitioner has filed the present writ petition.

4.The learned counsel for the petitioner would submit that with regard to selection grade, two G.Os., were issued viz., G.O.Ms.No.160 School Education Department(G) Department dated 23.08.2005 and G.O.(Ms)No.207 dated 30.09.2008. However, the authorities misunderstood the said G.Os and denied the petitioner's representation.

5.The learned Government Advocate would submit that though they have wrongly noted the date of the G.O., the said G.O., makes it clear that "those who were working as Primary School Headmaster as on 1.6.88 and retired from service before 1.8.2005 is concerned, As special case, the pay drawn at the time of retirement is basis for pension. There is no need to revise their selection and special grade scale of pay." Accordingly, the authorities have passed the impugned order, which need not be interfered with.

6.The short point for consideration in this case is whether the petitioner is entitled for pay fixation in Selection and Special Grade scale of pay as per G.O.Ms.No.207 dated 30.09.2008.

7.No doubt the petitioner retired from service on 29.02.2004, which is prior to the date mentioned in the G.O. i.e.,01.08.2005. For ready reference the relevant portion of G.O.Ms.160 School Education(G) Department Dated 23.08.2005 and G.O.Ms.207 School Education (G2) Department dated 30.09.2008 is extracted hereunder:

"(ii) Those who were working as Primary School Headmaster as on 1-6-88 and retired from service before 1-8-2005 is concerned,

As special case, the pay drawn at the time of retirement is basis for pension. There is no need to revise their selection and special grade scale of pay."

However, on perusal of the above said G.Os., it is made clear that any person who is working as Primary School Headmaster as on 01.06.1988 and retired from service prior to 01.08.2005, as a special case, they are entitled for pension based on the pay drawn at the time of retirement. The petitioner herein was retired from service on 29.02.2004, which is prior to the date mentioned in above said G.O. In view of this categorical

position, I do not find any illegality in the impugned order passed by the 4th respondent in Na.Ka.No.395/A2/2015 dated 18.05.2015. Accordingly, the writ petition stands dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to the Government,
The Government of Tamil Nadu,
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- 2.The Director of Elementary Education,
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- 3.The District Elementary Educational Officer,
Coonoor, The Nilgiris District.
- 4.The Assistant Elementary Educational Officer,
Kothagiri Range,
Kothagiri, The Nilgiris District.

+1cc to Mr.R.Saseetharan, Advocate, S.R.No. 76771

+1cc to the Government Pleader, S.R.No. 77724

सत्यमेव जयते

W.P.No.19942 of 2018

NRL (CO)

GN(18/10/2019)

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