

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 20.06.2019****CORAM****THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM**

W.P (MD) Nos.15992 to 16026 of 2014
and
W.P. (MD) No.17136 and 15397 of 2014

A. Amirthapandi	... Petitioner in WP (MD) . 15992/ 2014
P.Dhavanathan	... Petitioner in WP (MD) . 15993/ 2014
P. Parameshwari	... Petitioner in WP (MD) . 15994/ 2014
K.Mayilthai	... Petitioner in WP (MD) . 15995/ 2014
P.Jeyakodi	... Petitioner in WP (MD) . 15996/ 2014
N. Raju	... Petitioner in WP (MD) . 15997/ 2014
S. Rasaiya	... Petitioner in WP (MD) . 15998/ 2014
S. Koppan	... Petitioner in WP (MD) . 15999/ 2014
N.Sella Rani	... Petitioner in WP (MD) . 16000/ 2014
N. Manickam	... Petitioner in WP (MD) . 16001/ 2014
P. Rajammal	... Petitioner in WP (MD) . 16002/ 2014
V.Padmavathy	... Petitioner in WP (MD) . 16003/ 2014
T Rajesh Kumar	... Petitioner in WP (MD) . 16004/ 2014
C. Maragatham	... Petitioner in WP (MD) . 16005/ 2014
R.Ponnusamy	... Petitioner in WP (MD) . 16006/ 2014
P. Parasakthi	... Petitioner in WP (MD) . 16007/ 2014
G. Ganeshwari	... Petitioner in WP (MD) . 16008/ 2014
K.V. Rajamani	... Petitioner in WP (MD) . 16009/ 2014
J. Santhathayalam	... Petitioner in WP (MD) . 16010/ 2014
M. Ramaraj	... Petitioner in WP (MD) . 16011/ 2014



K.Seeniyammal ... Petitioner in WP(MD) . 16012/ 2014
P.Ramasamy ... Petitioner in WP(MD) . 16013/ 2014
K.Chellammal ... Petitioner in WP(MD) . 16014/ 2014
T. Subbhaiah ... Petitioner in WP(MD) . 16015/ 2014
K.Muniyandi ... Petitioner in WP(MD) . 16016/ 2014
M.Rakku ... Petitioner in WP(MD) . 16017/ 2014
K.Pushpamani ... Petitioner in WP(MD) . 16018/ 2014
V. Mayandi ... Petitioner in WP(MD) . 16019/ 2014
P.Rajammal ... Petitioner in WP(MD) . 16020/ 2014
C.K.Vellaisamy ... Petitioner in WP(MD) . 16021/ 2014
G. M. Krishnan ... Petitioner in WP(MD) . 16022/ 2014
S.R. Saraswathi ... Petitioner in WP(MD) . 16023/ 2014
J. Indhira Thangam ... Petitioner in WP(MD) . 16024/ 2014
N. Chennathai ... Petitioner in WP(MD) . 16025/ 2014

1. R. Sivamani (Died)
Son of RAJATHEVAR

2. A.Balakrishnan ... Petitioners in WP(MD) . 16026/ 2014
**(PETITIONER IS SUBSTITUTED FOR THE DECEASED SOLE PETITIONER
VIDE COURT ORDER DATED: 20/06/2019 IN WMP(MD)NO.15507 OF 2016
IN WP(MD)No.16026/2014)**

R.Perumal ... Petitioner in WP(MD) . 17136/ 2014
P.Jeyaprahasam ... Petitioner in WP(MD) . 15397/ 2014

Vs

1.The Secretary to Government,
Department of Backward Classes and Minorities Welfare,
St. George Fort, Chennai-600 009.



2.The Principal Secretary to Government,
School Education Department,
St. George Fort, Chennai-600 009.

3.The Commissioner,
Most Backward Classes and De-notified Communities Welfare,
Chepauk, Chennai-600 005.

4.The Joint Director,
Kallar Reclamation,
Madurai Collectorate Complex,
Madurai-625 020. ... Respondents in all WP's

COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to extend the petitioner the benefit of the G.O.Ms.No.234 School Education (G.2) Department, dated 10.09.2009 as confirmed by the Hon'ble Division Bench of this Hon'ble Court in W.A.(MD)No.563 to 580 of 2011 dated 16.11.2011 and the benefit of G.O.Ms.No.75, Department of Adi Dravidar and Tribal Welfare dated 25.07.2012 as confirmed by this Hon'ble Court in W.P(MD)No.10317 of 2013, dated 03.07.2013 within a stipulated time.

For Petitioner :Mr.A.Jayaramachandran

(in all WP's)

For Respondents :Mrs.S.Srimathy,
(in all WP's) Special Government Pleader

COMMON ORDER

All these writ petitions are filed for a direction to direct the respondents to extend the petitioners, the benefit of the G.O.Ms.No.234 School Education (G.2) Department, dated 10.09.2009 as confirmed by the Hon'ble Division Bench of this Court in W.A. (MD)No.563 to 580 of 2011, dated 16.11.2011 and the benefit of G.O.Ms.No.75, Department of Adi Dravidar and Tribal Welfare dated 25.07.2012 as confirmed by this Hon'ble Court in W.P(MD)No.10317 of 2013, dated 03.07.2013.

2.The benefit of the Selection Grade and the Special Grade was extended to these cadre of Teachers by G.O.Ms.No.234, Department of School Education (G2), dated 10.10.2009. The Hon'ble Division Bench of this Court relying on the judgment of the Full Bench of this Court passed an order in Rev.Applc(MD)No.35 of 2018 and etc.,



batch dated 19.03.2018 and the relevant paragraphs are extracted hereunder:-

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"6. The learned Special Government Pleader pointed out that the Full Bench while passing judgment on 11.08.2017 instead of disposing of the appeal in the light of decision of the Full Bench, dismissed the appeal. Only to that extent the Government is aggrieved and have filed the review application which according to the learned Special Government Pleader is an advertant error. Be that as it may, as on date in the case of Rep. By the Secretary and Others v. G.Eswaran and Others the Court had decided the issue. Therefore, the review application as well as the writ appeals and writ petitions which were heard by us today have to be disposed of in terms of decisions of the Hon'ble Full Bench. The operative portion of the order of the Hon'ble Full Bench reads as follows:

36. In fact, considering financial burden that would fall on the State exchequer, by order dated 24.11.2016, we passed the following:

"2. According to the learned Senior Counsel appearing for the teachers, as per G.O.Ms.No.860, Finance (Pay Commission) Department dated 11.8.1989, which is issued based on the proceedings of the Director of School Education dated 22.08.1989, in Para No.III, Sl.No.79, it provides for equal pay scale to that of the Headmaster of Middle School, which is equivalent to the Selection Grade Secondary Grade Teachers and their pay scale was revised from Rs.705-1230 to Rs.1640-2900. It is their further contention that till 31.5.1988, viz., the date of implementation of V Pay Commission, the scale of pay of Secondary Grade Teachers and Primary School Headmasters were identical. It appears for the Primary School Headmasters and the Secondary School Headmasters basic pay is shown to be different than that are mentioned above, i.e. 1640-2900.

3. Therefore, with regard to the implementation of the Pay Scales prescribed by the V Pay Commission and also in giving effect to G.O.Ms.No.216, Finance (PC) Department dated 22.3.1993, it is open to the Government to consider the financial position and the burden that would fall on the exchequer, subsequent to the implementation of the recommendations of the V Pay Commission. Further, the Government may also keep in mind



that this Court has left it open to the Government that implementation would be only with reference to the pensionary benefits along from the date of the judgment, i.e. 04.02.2015 and the arrears cannot be claimed by the teachers and it is for the Government to decide about the arrears and also regarding any financial hardship that would be pleaded by the Government."

37. While passing the above order, we also directed the learned Advocate General to take assistance of the Secretaries to the Government, Education and Finance Department to take a decision as to the implementation of the G.O.Ms.No.216, dated 22.3.1993 keeping in mind the various orders passed by this Court.

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 22.3.1993 for the period between 1.6.1988 and 31.12.1995, on and from 1.3.2017 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 22.3.1993 payable on and from 1.3.2017;

(iii) It is made clear that the beneficiaries under this order, are not entitled to the arrears of revised pay scales;

<https://hcservices.ecourts.gov.in/hcservices/> (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;

39. With the above directions, all the captioned matters, viz., Writ Appeals, Writ Petitions, Review Applications are disposed of and the Contempt Petitions are closed. There shall be no order as to costs. Consequently, all connected Miscellaneous Petitions are closed.?

7. As pointed out earlier, the only distinction between the facts of the case considered by the Hon'ble Full Bench and facts before us is that those cases pertain to Government Teachers of High and Higher Secondary Schools which come under School Education Department whereas the case before us pertains to the Elementary Education Department and the Government Order, which were considered by Hon'ble Full Bench is G.O.Ms.NO.216 and the Government Order, which has been considered by us is G.O.Ms.No.234. Except for such distinction, no other distinction can be pointed out.

8. According, we dispose of review application, writ appeals and writ petitions. In the light of the decision of the Hon'ble Full Bench, in the case of G. Eswaran, this Court directed the Government to expedite the process of calculation and fixation of pension and family pension which shall be completed as expeditiously as possible preferably six months from the date of receipt of copy of this order. It is made clear that this decision is applicable to the cases before us and in the case of the teachers, whose cases included in this batch, have already received revised monetary benefit/pension, the same shall not be altered. No Costs. Consequently, connected miscellaneous petitions are closed.

3. In view of the judgment of the Hon'ble Division Bench of this Court, this Court is of the considered opinion that the ~~same~~ <https://hccourtsonline.gov.in/home.html> by the Division Bench of this Court is to be extended to all these writ petitioners and accordingly, the respondents are directed to initiate the steps to grant the



benefits to these petitioners in terms of the order of the Division Bench cited supra, as expeditiously as possible.

4. With the above directions, all these writ petitions stand disposed of. No costs.

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Sd/-

Assistant Registrar (C.O.)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Secretary to Government,
Department of Backward Classes and Minorities Welfare,
St. George Fort, Chennai-600 009.

2.The Principal Secretary to Government,
School Education Department,
St. George Fort, Chennai-600 009.

3.The Commissioner,
Most Backward Classes and De-notified Communities Welfare,
Chepauk, Chennai-600 005.

4.The Joint Director,
Kallar Reclamation,
Madurai Collectorate Complex,
Madurai-625 020.

1CC TO THE SPL GOVT PLEADER SR 70708,70707

KM

17/07/2019

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and
W.P. (MD)No.17136 and 15397 of 2014