



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.15741 of 2014

M.Habib

... Petitioner

-Vs-

1.The State of Tamil Nadu,
Rep by the Principal Secretary to 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 ,
R.M.S.Road,
Madurai 625 002.

4.The Additional Assistant Elementary Educational
Officer,
Thirupparankundram,
(At) Thirunagar,
Madurai 625 006.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent made in G.O.Ms.No.270 School Education (G.2) Department dated 20.09.2010 and quash the same and direct the respondents to extend to the petitioner the benefit of G.O.Ms.No.234 School Education (G.2) Department dated 10.09.2009 which was implemented in pursuance of order dated 21.02.2008 of the Division Bench of the Madras High Court in W.P.No.29644 and 29645 of 2003 within a stipulated period.

For Petitioner : Mr.B.Alagarsamy

For Respondents : Mrs.S.Srimathy,
Special Government Pleader.

**ORDER**

Lis on hand is filed to quash the Government Order in G.O.Ms.No.270 School Education (g.2) Department dated 20.09.2010 and to extend the benefit of G.O.Ms.No.234, School Education (G.2) Department, dated 10.09.2009, which was implemented in pursuance of the order dated 21.02.2008 of the Hon'ble Division Bench of the Madras High Court in W.P.Nos.29644 and 29645 of 2003.

2.The writ petitioner was appointed as Secondary Grade Teacher on 17.07.1972 and promoted as Elementary School Headmaster on 24.04.1993. The writ petitioner has attained the age of superannuation on 30.11.1998 and allowed to retire from service.

3.The claim of the writ petitioner is that at the time of implementing the 5th Pay Commission with effect from 01.06.1988, the persons, holding the post of Elementary Schools Headmaster as on 01.06.1988 were given selection grade and special grade, counting the entire services rendered as Secondary Grade Teacher as well as Elementary School Headmasters, prior to 01.06.1988, according to G.O.Ms.No.1381, Education, dated 05.10.1980 and G.O.Ms.No.185, Education, dated 16.12.2002.

4.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner was initially appointed as Secondary Grade Teacher and subsequently, his services were regularised. Selection grade and special grade were granted, counting the length of service rendered as Secondary Grade Teachers as well as Elementary School Headmaster on 01.06.1988.

5.Thus, the position is very clear that services of Secondary Grade Teacher and Elementary School Headmaster, which was considered as equivalent category prior to 01.06.1988 were taken into account for the purpose of granting selection grade and special grade. Thus, the condition precedent is that the services of a teacher, who serve as Secondary Grade Teacher and Elementary School Headmaster prior to 01.06.1988, can be taken into account for the purpose of granting selection grade and special grade.

6.The writ petitioner was appointed as Secondary Grade Teacher and subsequently, his services were regularised. Thus, the writ petitioner was permanently appointed in the cadre of Secondary Grade Teacher, after the implementation of 5th Pay Commission.

7.This being the factum, the writ petitioner is not at all eligible and he is not coming within the purview of the said policy at all. The position is very clear in Paragraph No.4 of the counter affidavit filed by the respondents. The relevant paragraphs are extracted hereunder:-



"4.It is submitted that the present writ petition is filed seeking to quash the recent government order passed in G.O.Ms.No.179, School Education Department, dated 06.09.2013. By the said government order, the State Government ordered that those retired primary school Headmaster who were working as secondary grade teacher and primary school headmaster prior to 01.06.1988 and who were promoted as primary school headmaster between 01.06.1988 to 31.12.1995 and who have obtained specific orders from the court of law will be given the benefit of awarding selection grade and special grade in primary headmaster post by computing their secondary grade teacher service and primary school headmaster service prior to the crucial date of 01.06.1988.

5.It is submitted that before the issuance of the G.O.Ms.No.179, dated 06.09.2013, some periodical policy decisions were taken by the State Government by various government orders. In the year 2009, policy decision was taken by the 1st respondent by issuing government order in G.O.Ms.No.234, School Education (G2) Department, dated 10.06.2009, wherein the government had taken policy decision and ordered that to compute the year of services rendered as secondary grade teacher and primary school headmasters prior to 01.06.1988 to award selection grade and special grade to those teachers who were promoted as headmaster of primary school after 01.06.1988. But, the benefit was restricted to only 63 elementary school headmasters by way of G.O.Ms.No.234, who approached the tribunal and the court and obtained favourable orders. Several teachers of similar kind and non-similar kind headmasters have filed several writ petitions by seeking to extend the benefit of G.O.Ms.No.234 to them also. The Hon'ble Single Judge of this Hon'ble Court had taken different views and some writ petitions were allowed and some of them were dismissed. Those whose writ petitions were dismissed have preferred writ appeal before this Hon'ble Court and some of them obtained favourable orders in the writ appeal also."

8.The fact remains that the writ petitioner was appointed on 17.07.1972, after the implementation of 5th Pay Commission. Therefore, counting of the services rendered prior to 01.06.1988 as Secondary Grade Teacher and Elementary School Headmaster does not arise at all.



9. Accordingly, this Writ Petition is devoid of merits and the same stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Principal Secretary to Government,
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+1CC TO MR. B. ALAGARSAMY, Advocate Sr. No. 80138

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PK(CO)

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