



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2019

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.424 of 2014

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D.Antony Muthu

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George,
Chennai-600 006.

2.The Director of Elementary Education,
College Road, Chennai-600 006.

3.The District Elementary Educational Officer,
Pudukottai, Pudukottai District.

4.The Assistant Elementary Educational Officer,
Arimalam Union, Arimalam,
Pudukottai District.

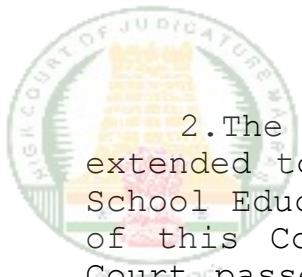
... Respondents

PRAYER: Writ Petitions under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents herein to sanction and award forthwith Selection Grade and Special Grade to the petitioner in the post of Primary School Headmaster by reckoning and computing the petitioner's service rendered in the cadres of Secondary Grade Teacher (03.04.1986 to 13.09.1998) and Primary School Headmaster (from 14.09.1998 to till date).

For Petitioner : Mr.M.J.Shabu Jose
For Respondents : Mrs.S.Srimathy,
Special Government Pleader

ORDER

The writ petition is filed for a direction to direct the respondents to award Selection Grade and Special Grade by reckoning and computing the period of service rendered by the writ petitioner in the post of Primary School Headmaster as well as the Secondary Grade Teacher.



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.Aplc(MD)No.35 of 2018 and etc., batch dated 19.03.2018 and the relevant paragraphs are extracted hereunder:-

"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;

(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 monitory 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 benefit granted by the Division Bench of this Court is to be extended to the writ petitioner and accordingly, the respondents are directed to initiate the steps to grant the benefits to the petitioner in terms of the order of the Division Bench cited supra, as expeditiously as possible. It is made clear that the authorities competent should verify the service records of the writ petitioner and ascertain the eligibility and other criterias for the purpose of extending the



benefit of G.O.Ms.No.234, Department of School Education (G2), dated 10.10.2009.

4. With the above directions, the writ petition stands disposed of. No costs.

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Sd/-

Assistant Registrar (AD I)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Secretary,
Department of School Education,
Fort St. George,
Chennai-600 006.

2.The Director of Elementary Education,
College Road, Chennai-600 006.

3.The District Elementary Educational Officer,
Pudukottai, Pudukottai District.

4.The Assistant Elementary Educational Officer,
Arimalam Union, Arimalam,
Pudukottai District.

+1 CC to M/s.SPL GP (SR-78714[F] dated 30/07/2019) (SR-79682[F]
dated 05/08/2019)

+1 CC to M/s.SHABU JOSE, Advocate (SR-79616[F] dated 05/08/2019)

W.P. (MD) No.424 of 2014
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_KK/SAR/13.08.2019/5P-7C/