



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2019

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P(MD)No.9777 of 2014

1.N.Thanapandiammal
2.A.Nagajothi

... Petitioners

Vs

The Government of Tamil Nadu represented by

1)The Secretary to Government,
School Education Department,
Fort Saint George,
Chennai-600 009.

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

3.The District Elementary Educational Officer,
Dindigul District,
Palani Road,
Dindigul-624 001.

4.The Addl.Assistant Elementary Education Officer,
Athoor Panchayat Union At Sempatti,
Dindigul District-624 707.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to extent the benefits of G.O.Ms.No.234, School Education (G2) Department dated 10.09.2009 which is confirmed and covered in a number of Writ Petitions and Writ Appeals, in favour of the petitioner by fixing the pay of the petitioners' husbands Late.N.Nehru Gandhi and Late.S.Sikkanan in Selection Grade and Special Grade in the post of the Head Master of Elementary School, by taking into account of their entire services as Secondary Grade Teacher and Elementary School Head Master and fix the salary and pay arrears with consequential benefits.



For Petitioner : Mr.S.Chandrasekaran

For Respondents : Mrs.S.Srimathy
Special Government Pleader

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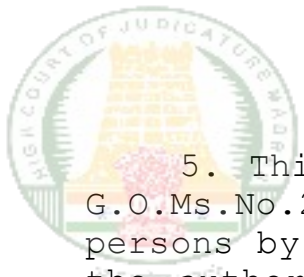
ORDER

The relief sought for in the present writ petition is for a direction to the respondents to extend the benefits of G.O.Ms.No.234, School Education (G2) Department, dated 10.09.2009.

2.The learned counsel appearing on behalf of the writ petitioners states that the writ petitioners' husband were holding the post of Headmaster and retired from service. The petitioners's husband were appointed as Secondary Grade Teacher on 07.04.1973 and 29.10.1973 and promoted to the post of Headmaster on 01.07.1995 and 14.12.1998 and retired from service on 23.10.2001 and 30.1.2006. The learned counsel for the petitioners states that the Government issued G.O.Ms.No.234, School Education (G2) Department, dated 10.09.2009 granting the benefit of Selection Grade and Special Grade by counting the services rendered as Primary School Headmaster and Secondary Grade Teacher prior to 1.6.1988. The 5th Pay Commission recommendation was implemented by the Government with effect from 1.6.1988 before implementation of 5th Pay Commission. The post of Secondary Grade Teacher and Primary School Headmaster were equivalent post carrying equal scale of pay. Thus, the period of service rendered in the Secondary Grade Teacher and Primary School Headmaster prior to 1.6.1988 is to be counted for the purpose of grant of Selection Grade and Special Grade.

3. The learned Special Government Pleader appearing on behalf of the respondents states that the case of the writ petitioners's husband were considered by the respondents and it was found that they are not eligible. The entitlement of the writ petitioners' husband with reference to the Government Order was considered by the competent authorities and they have arrived at a conclusion that the benefit was restricted only to 63 Elementary School Headmaster by way of Government Order, who approached the TET and obtained orders. The petitioners' husband were working in the Private aided school and therefore, the benefits granted in G.O.M.sNo.234, dated 10.09.2009 cannot be granted.

4. The learned counsel for the petitioners states that the Government Order was extended to all the Teachers working in both the Government School as well as the Aided school. The services of the writ petitioners' husband were approved by the Education Department and therefore, the benefit of the Government Order is



5. This Court is of the considered opinion that undoubtedly, G.O.Ms.No.234, dated 10.09.2009 was granted in respect of 63 persons by citing one order. Subsequent orders were also passed by the authorities as well as various writ petitions were filed to consider the representation and based on such directions to consider the representation also, many such orders are passed in favour of the few individuals. Further, a direction continuing such method of getting monetary benefits cannot be encouraged by the Court, since it causes greater financial loss on the State exchequer. The Constitutional Courts are bound to consider the financial implications of the State, in certain circumstances. Undoubtedly, the entitlement of the employees are also to be considered. However, such way of granting additional benefits through Government Orders and based on the Government Orders several claims are made by getting an order to consider the representation. The authorities are also claiming arrears and paying the amount from and out of the tax payers money. Such directions granting monetary benefits can never be accepted in a routine manner.

6. As far as the writ petitioners are concerned, the writ petitioners' husband were died at the time of filing of the writ petition. They were retired from service on 23.10.2001 and 30.01.2006. This Court is of the considered opinion that the very claim of the writ petitioners are made after a lapse of 13 years and 9 years from the date of their retirement. If all such retired employees at the age of 75 to 80 started claiming benefit of selection grade, the Court cannot consider such claims, after a lapse of somany years. The very claim itself is made after a lapse of 13 and 9 years from the date of their retirement. This being the factum, this Court is not inclined to grant the relief as such sought for.

7. Accordingly, the writ petition stands dismissed. No costs.

Sd/-

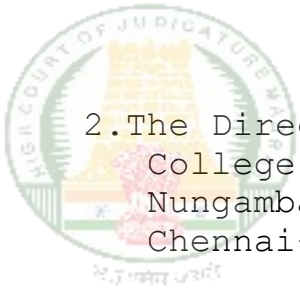
Assistant Registrar (co)

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Sub Assistant Registrar (CS)

To

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Dindigul District-624 707.

+1 CC to M/s.S.CHANDRASEKARAN, Advocate (SR-74647[F] dated
11/07/2019)

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