



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P (MD) No.9812 of 2014

1.C.Saraswathi
2.S.Annal Marry

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

5.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 petitioners by fixing the pay of the first petitioner and the second petitioner's husband 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

WEB COPY

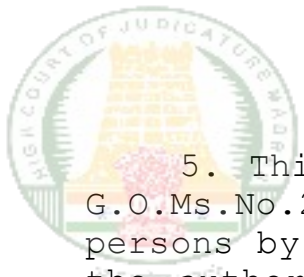
ORDER

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 first petitioner and the husband of the second petitioner were holding the post of Headmaster and retired from service. The first petitioner and the husband of the second petitioner were appointed as Secondary Grade Teacher on 29.3.1966 and 21.2.1980 respectively and promoted to the post of Headmaster on 30.08.1992 and 5.10.1988 and retired from service on 30.6.2002 and 30.6.2001 respectively. 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 were considered by the respondents and it was found that they are not eligible. The entitlement of the writ petitioners 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 first petitioner and the husband of the second petitioner 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 first petitioner and the husband of the second petitioner were approved by the Education Department and therefore, the benefit of the Government Order is to be extended.



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 implication 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 first petitioner and the husband of the second petitioner even at the time of filing of the writ petition was aged nearly 65 to 69 years. They were allowed to retire from service in the year 2001 to 2002. As per the typed set of papers filed along with writ petition, the representation itself was filed in the year 2013. This Court is of the considered opinion that the very claim of the writ petitioners are made after a lapse of many 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. In the present case on hand, the writ petition was filed by the petitioners at the age of 60 to 65 years and as of now, they would be around 75- 80 years. The very claim itself is made after a lapse of somany 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)

// True Copy //



To

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

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

+1 CC to M/s.S.CHANDRASEKARAN, Advocate (SR-74649[F] dated
11/07/2019)

am

W.P (MD) No. 9812 of 2014
09.07.2019

KM/ (24.07.2019) 4P 7C