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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD) No.23290 of 2019

S.George ... Petitioner

-Vs-

1.The Secretary to Government,
School Education Department (G2),
St. George Fort, Chennai.

2.Director of Primary Education,
DPI Complex, College Road,
Chennai.

3.Chief Educational Officer,
Kanniyakumari District at Nagercoil,
Nagercoil, Kanniyakumari District.

4.District Educational Officer,
Nagercoil, Kanniyakumari District.

5.District Educational Officer,
Thucklay, Kanniyakumari District.

6.District Educational Officer,
Kuzhithurai, Kanniyakumari District.

7.District Educational Officer,
Thiruvattar, Kanniyakumari District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 17.07.2019 and to consider the selection / special grades of the Primary School Headmasters from 01.06.1988 and avail the pension benefits.

For Petitioner : Mr.G.V.Vairam Santhosh
For Respondents : Mr.M.Karuppasamy,
Government Advocate.

ORDER

This Writ Petition is filed to direct the respondents to consider the petitioner's representation dated 17.07.2019 and to consider the selection / special grades of the Primary School

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Headmasters from 01.06.1988 and avail the pensionary benefits.

2.According to the petitioner, he was appointed as Secondary Grade Teacher and subsequently, his service was regularized and selection grade was granted. Till 01.06.1988, the scale of pay of the Secondary Grade Teachers and Primary School Headmaster was one and the same. By 5th Pay Commission, the pay scale of the Primary School Headmaster was fixed higher than the Secondary Grade Teacher. On various representations given by the association, the Government has issued G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993, introducing the uniform scale of pay for all the Secondary Grade Teachers as per the Annexure-I to G.O.Ms.No.304, Finance (PC) Department, dated 28.03.1990. One N.Govindarajan has filed O.A.No.8276 of 1997, claiming the benefits under G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993. The Tribunal, by the order dated 07.10.1998, has allowed the said O.A. The Government, after lapse of nearly 9 years, has filed W.P.No.8747 of 2009, challenging the correctness of the order passed by the Tribunal. The Division Bench of this Court, by the order dated 14.07.2009, has dismissed the Writ Petition and imposed cost of Rs.10,000/- and directed the Government to comply with the order of the Tribunal, which was challenged by the Government before the Hon'ble Apex Court, by filing Special Leave Petition in S.L.P. (Civil) C.C.No.2746 of 2010 and the said petition was also dismissed by the Hon'ble Apex Court on 23.04.2010.

3.Meanwhile, the number of teachers, similarly placed like N.Govindarajan, have filed Writ Petitions and this Court has allowed some of the Writ Petitions and dismissed some of the Writ Petitions. In the Writ Appeal filed by the teachers, challenging the order of dismissal of the Writ Petitions and in the Writ Appeal filed by the Government, challenging the order of allowing the Writ Petitions, the Division Bench of this Court has held that the teachers similarly placed like N.Govindarajan are entitled to benefit under G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993. The Division Bench of this Court, by the order dated 10.12.2015, made in W.P.(MD)Nos.7061 of 2011 etc batch, held that the teachers are not entitled to the benefit under G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993.

4.In view of the inconsistency in the judgements of the Division Benches of this Court, the issue was referred to Full Bench of the Principal Seat of this Court. The Full Bench of the Principal Seat of this Court, by common judgment dated 09.12.2016, has held that the Secondary Grade Teachers are entitled to benefit under G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993, only from 01.03.2017, but they are not entitled to arrears and the same has to be taken into account for pension and family pension. Therefore, the petitioner gave representation for the benefit as per the judgment of the Full Bench of the Principal Seat of this Court dated 09.12.2016. However, so far, the same has

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not been considered. Hence, the petitioner has come forward with the present Writ Petition.

5.When the Writ Petition is taken up for hearing, the learned counsel appearing for the petitioner submitted that the petitioner would be satisfied, if a direction is issued to the respondents to consider the representation and pass orders on merits.

6.Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents and perused the materials available on record carefully.

7.In view of the limited relief sought for now, the petitioner is directed to send a fresh representation to the first respondent, enclosing his service particulars and a copy of the judgment of the Full Bench of the Principal Seat of this Court dated 09.12.2016, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the first respondent is directed to consider the same, on merits, taking into consideration the judgment of the Full Bench of the Principal Seat of this Court, dated 09.12.2016 and pass appropriate orders in accordance with law, within a period of sixteen weeks thereafter.

8.With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

Myr

To

1.The Secretary to Government,
School Education Department (G2),
St. George Fort, Chennai.

2.Director of Primary Education,
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3.Chief Educational Officer,
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+1 CC to M/s.SPL GP (SR-99916[F] dated 20/11/2019)

+1 CC to M/s.G. VAIRAM SANTHOSH, Advocate (SR-100083[F] dated 21/11/2019)

W.P.(MD)No.23290 of 2019
19.11.2019
(23/62)

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