

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.13027 of 2013

1.Z.Joseph

... Petitioner

.Vs.

1. The Government of Tamil Nadu
Rep. by its Secretary,
Education Department,
Fort St.George,
Chennai - 9.

2. The Director of School Education,
College Road, Nungambakkam,
Chennai - 32.

3. The District Educational Officer,
Old Collectorate Office Building,
Trichy.

4. The Accountant General
Office at Prl.A.G.(CA) ISC IV,
5th Floor, Anna Salai,
Teynampet,
Chennai - 18.

5. The Headmaster & Correspondent,
St.Joseph's College Higher Secondary School,
Trichy - 2.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings of the 4th respondent in PAG (G&SS)/Civil - IV/16-049/05-06/150 dated 28.08.2012 and earlier proceedings No.AG (CA) No.I SC-IV/2/16-49 dated 27.10.2006 and order of the 3rd respondent made Na.Ka.in NO.7170/B4/2004 dated 10.09.2004 and quash the same and consequently direct the respondents to refix the selection grade pay in BT Assistant from 12.05.1994 by counting services rendered in Secondary Grade Teacher and B.T.Assistant and pay the pension and all pensionary benefits to that effect and also refund the recovered amount of Rs.1,08,651/-.

For Petitioner : M/s.S.Wilson

For Respondents: Mr.S.Suresh Kumar for R1 to R3
Government Advocate

Mr.M.Vijayakumar for R4

Mr.R.Parthiban for R5

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings of the fourth respondent in PAG (G&SS)/Civil - IV/16-049/05-06/150 dated 28.08.2012 and earlier proceedings No.AG (CA) No.I SC-IV/2/16-49 dated 27.10.2006 and order of the third respondent made Na.Ka.No.7170/B4/2004 dated 10.09.2004 and to quash the same and to consequently direct the respondents to refix the selection grade pay in BT Assistant from 12.05.1994 by counting the services rendered in Secondary Grade Teacher and B.T.Assistant and to pay the pension and all pensionary benefits to that effect and also to refund the recovered amount of Rs.1,08,651/-.

2.The case of the petitioner is that the petitioner was initially appointed as Secondary Grade Teacher in the fifth respondent School on 25.04.1974 and was awarded Selection Grade on 12.05.1984. The petitioner was promoted as B.T.Assistant (Mathematics) on 07.06.1989. As per G.O.No.238 dated 26.06.1998 and G.O.Ms.No.24 dated 02.02.1999, the third respondent granted selection grade pay to the petitioner on 12.05.1994. Thereafter, after the period of ten years, the petitioner applied for special grade pay to the third respondent, however, the third respondent rejected the claim of the petitioner on the ground that the selection grade granted to the petitioner from 12.05.1994 was wrong and also recovered a sum of Rs.1,08,651 from the petitioner.

3.It is the further case of the petitioner that pursuant to the proceedings of the second respondent dated 07.01.2000, the applicability of G.O.No.238 dated 26.06.1998 and G.O.Ms.No.24 dated 02.02.1999, was clarified. According to the petitioner selection grade granted to the petitioner from 12.05.1994 was correct and the amount of Rs.1,08,651/- recovered from the petitioner has to be refunded to him. In this regard, the petitioner made several representations and since there was no response, has filed this writ petition.

4.The learned counsel appearing for the petitioner would submit that G.O.No.238 dated 26.06.1998 and G.O.Ms.No.24 dated 02.02.1999 were rightly applied and selection grade was granted to the petitioner from 12.05.1994 and hence, the amount of Rs.1,08,651/- recovered from the petitioner has to be refunded to him. In this regard, the petitioner made representation to the respondents, however, the same has not yet been considered.

5.Pointing out to the counter affidavit filed by the third respondent, the learned Government Advocate would submit that according to G.O.Ms.No.24 dated 02.02.1999, the services rendered by the petitioner in Secondary Grade Teacher and B.T.Assistant cannot be counted for awarding selection grade pay in B.T.Assistant and cannot be refixed from 12.05.1994 because according to the above Government Order, the selection grade pay of the petitioner in B.T.Assistant has to be fixed with effect from 01.06.1998. He would further submit that the selection grade granted to the petitioner from 12.05.1994 is not correct and hence the amount recovered from the petitioner need not be refunded to him.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.The petitioner was initially appointed as Secondary Grade Teacher in the fifth respondent School on 25.04.1974 and was awarded Selection Grade on 12.05.1984. The petitioner was promoted as B.T.Assistant (Mathematics) on 07.06.1989. Thereafter the third respondent granted selection grade pay to the petitioner on 12.05.1994 and after a period of ten years, when the petitioner applied for special grade pay to the third respondent, the third respondent rejected the claim of the petitioner on the ground that selection grade granted to the petitioner from 12.05.1994 was wrong and also recovered a sum of Rs.1,08,651 from the petitioner.

8.Perusal of records disclose that the petitioner retired from service during the year, 2009, however, made representation to the respondents seeking refixation of selection grade and refund of the amount recovered from the petitioner only during the year 2012. It is also known that the petitioner has made representation only after the Madurai Bench of this Court passed order dated 09.02.2011 in W.P.(MD) No.6869 of 2005, however, the case of the petitioner in W.P.(MD) No.6869 of 2005 is different from the case of the petitioner herein.

9.The petitioner in W.P.(MD) No.6869 of 2005 is a Tamil Pandit and he was not granted selection grade at the relevant point of time. The petitioner herein is B.T.Assistant (Mathematics) and he was granted selection grade at the relevant

point of time. Hence, this Court is not inclined to grant the relief sought for in this writ petition.

10.The writ petition is accordingly dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
Government of Tamil Nadu,
Education Department,
Fort St.George, Chennai - 9.
2. The Director of School Education,
College Road, Nungambakkam,
Chennai - 32.
3. The District Educational Officer,
Old Collectorate Office Building,
Trichy.
4. The Accountant General
Office at Prl.A.G.(CA) ISC IV,
5th Floor, Anna Salai,
Teynampet, Chennai - 18.

+1cc to Mr.S.Wilson, Advocate, Sr.No.31606
+1cc to the Government Pleader, Sr.No.31494

W.P.No.13027 of 2013

rp (co)
rr ii (22/10/2020)