

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2020

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.NO.26410 OF 2005
(O.A.NO.1826 OF 2003)

1.P.Ramakrishnan
2.P.Kandeeban
3.M.P.Sundaram
4.M.Dharmalingam Petitioners

Vs.

1.The Secretary to Government
School Education Department
Fort St. George,
Chennai - 9.
2.The Accounts Officer (Education)
Madurai.
3.The Chief Educational Officer
Perambalur. Respondents

PRAYER: This writ petition came to be numbered under Article 226 of the Constitution of India by way of transfer of O.A.No.1826 of 2003 from the file of the Tamil Nadu Administrative Tribunal with a prayer to call for the records relating to the order of the first respondent dated 05.03.2001 issued in the Ref.No.G.O.Ms.No.38, School Education (S2) Department and the order of the second respondent dated 07.07.2002 issued in the Ref.No.Na.Ka.No.2468/Aa5/02 and the orders of the third respondent dated 27.02.2003 issued in the Ref.No.Aa.Thee.Mu.No.2600/Aa2/03 and order dated 08.11.2002 issued in the Ref.No.O.Mu.No.10880/Aa2/02 and the order dated 16.10.2002 issued in the Ref.No.O.Mu.No.10712/Aa2/2002 and the order dated 12.03.2003 issued in the Ref.Number.Aa.Thee.Mu.No.1279/Aa2/03 and quash the same.

For Petitioners : Mr.M.Arunkumar

For Respondents : Mr.P.Raja
Government Advocate

O R D E R

The petitioners were appointed as Secondary Grade Assistants and were promoted as Tamil Pandits. As per G.O.Ms.No.210, Personnel and Administrative Reforms Department, dated 11.03.1987, the service rendered in the lower post could be taken into account for Selection Grade in the promoted post provided that the pay scales are identical. Since the Selection Grade pay scale of Secondary Grade Assistant and the pay scale of B.T. Assistant were not identical, the promoted persons could not get the benefit of the said Government Order. Therefore, the teachers Association made a representation to the Government. After considering the representations, as a special case, the Government had decided to provide the benefit of G.O.Ms.No.238, dated 26.06.1998 to all the Teachers promoted to Selection Grade B.T. Assistant and Tamil Pandit. Accordingly, the service rendered in the lower post could also be counted for Selection Grade to be given in the promoted post. Accordingly, the first petitioner, who was appointed on 05.11.1983, was given Selection Grade in the promoted post of B.T. Assistant / Tamil Pandit on 05.11.1993 on completion of ten years of service. Whereas, the said benefit was reversed and recovery was ordered by way of G.O.Ms.No.38, School Education (S2) Department, dated 05.03.2001. On the basis that the pay scales were identical only between 01.06.1988 and 31.12.1995. The service put in during that period alone will be counted for Selection Grade. The excess salary given was directed to be recovered. Aggrieved over the same, the petitioners are before this Court.

2. According to the petitioners, the services rendered in the Secondary Grade Assistant post, should also be counted for selection grade scale of pay in the promoted post. The benefit given in G.O.Ms.No.238, Education Department, dated 26.06.1998, cannot be taken away without notice.

3. In similar circumstances, this Court considered the very same G.O.Ms.No.38, School Education Department, dated 05.03.2001 and quashed the said Government Order in W.P.No.36752 and 36831 of 2006 dated 22.08.2012 and a direction was given to the respondents therein to consider the benefits due to the petitioners in the light of G.O.Ms.No.185, dated 16.12.2002, G.O.Ms.No.212, dated 07.08.2000 and G.O.Ms.No.238, dated 26.06.1998. I do follow the above order of this Court made in favour of similarly placed persons. As long as the benefits given in special circumstances to the petitioners are taken away without notice and without reference and super cession of G.O.Ms.No.238, dated 26.06.1998 in not counting the period of service rendered in the lower post for the promoted post is concerned, it is bad and illegal. Since the impugned

G.O.Ms.No.38, School Education (S2) Department, dated 05.03.2001 has already been set aside, a direction is given to the respondents to give all the benefits to the petitioners in the light of G.O.Ms.No.238, Education Department, dated 26.06.1998, within a period of six weeks from the date of receipt of a copy of this order.

4. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

TK

To

- 1.The Secretary to Government
School Education Department
Fort St. George,
Chennai - 9.
- 2.The Accounts Officer (Education)
Madurai.
- 3.The Chief Educational Officer
Perambalur.

+1cc to Government Pleader SR.No.8633

W.P.NO.26410 OF 2005
(O.A.NO.1826 OF 2003)

SVI (CO)
GMY (28/07/2020)

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