

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2020

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.6585 OF 2013

D.Goldi Devavaram

... Petitioner

Vs.

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

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the respondent in Na.Ka.No.26599/G1/12 dated 28.12.2012 and quash the same and direct the respondent to extend the benefits of G.O.Ms.No.216, School Education Department dated 30.12.2011 to the petitioner and accordingly fix the petitioner's pay in the Selection Grade of Primary School Head Master and grant her all consequential benefits.

For Petitioner : Mr.P.Rajendran

For Respondent : Mr.S.Suresh Kumar
Government Advocate

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the respondent in Na.Ka.No.26599/G1/12 dated 28.12.2012 and to quash the same and to direct the respondent to extend the benefits of G.O.Ms.No.216, School Education Department, dated 30.12.2011, to the petitioner and accordingly fix the petitioner's pay in the Selection Grade of Primary School Head Master and to grant her all consequential benefits.

2.The case of the petitioner is that the petitioner was appointed as Higher Grade Teacher on 08.11.1971 and was upgraded

as Secondary Grade Teacher on 01.10.1973. The petitioner's services were regularized in the post of Secondary Grade Teacher with effect from 08.11.1971. The petitioner was promoted as Primary School Headmaster on 01.06.1992 and retired from service on 31.08.2009 and was re-employed till the end of academic year, i.e., on 31.05.2010.

3.It is the further case of the petitioner that prior to 01.06.1988, the posts of Primary School Headmaster and Secondary Grade Teacher carried same scale of pay and hence seniority was not followed while making transfers and postings. However, from 01.06.1988, Primary School Headmasters were given higher scale of pay. The grievance of the petitioner is that the service rendered in the post of Secondary Grade Teacher prior to 01.06.1988 should be counted along with the service rendered in the post of Primary School Headmaster for the purpose of awarding selection/ special grade in the post of Primary School Headmaster.

4.It is the further case of the petitioner that the petitioner made representation to the respondent seeking to count the service rendered in the post of Secondary Grade Teacher prior to 01.06.1988 along with the service rendered in the post of Primary School Headmaster and to grant all consequential benefits and since the same was not considered filed W.P.No.747 of 2012 before this Court. This Court vide order dated 24.01.2012, made in the said writ petition, directed the respondent to consider the case of the petitioner as to whether the petitioner is eligible for grant of the relief in terms of G.O.Ms.No.216, School Education Department, dated 30.12.2011.

5.It is the further case of the petitioner that pursuant to the said order dated 24.01.2012, the respondent issued the impugned order dated 28.12.2012 to the petitioner, rejecting the petitioner's claim on the ground that the petitioner was working in an Aided School and retired from an Aided School. Aggrieved by the same, the petitioner has filed this writ petition.

6.The learned counsel appearing for the petitioner would submit that only in the abstract of G.O.Ms.No.216, School Education Department, dated 30.12.2011, it is mentioned 'Elementary Education - Panchayat Union Schools' and nowhere in the body of the Government Order it is stated that the benefit is restricted only to Panchayat Union School Teachers. Hence,

in the absence of any distinction, the petitioner is entitled to get the benefits of G.O.Ms.No.216, School Education Department, dated 30.12.2011.

7.The learned Government Advocate would submit that the abstract in G.O.Ms.No.216, School Education Department, dated 30.12.2011, itself makes it clear that the benefit of the Government Order is restricted to only Panchayat Union School Teachers and hence, the claim of the petitioner cannot be considered.

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

9.The undisputed facts are that the petitioner was appointed as Higher Grade Teacher on 08.11.1971 and was upgraded as Secondary Grade Teacher on 01.10.1973. The petitioner's services were regularized in the post of Secondary Grade Teacher with effect from 08.11.1971. The petitioner was promoted as Primary School Headmaster on 01.06.1992 and retired from service on 31.08.2009 and was re-employed till the end of academic year, i.e., on 31.05.2010.

10.It is also undisputed that prior to 01.06.1988, the posts of Primary School Headmaster and Secondary Grade Teacher carried same scale of pay and hence seniority was not followed while making transfers and postings. However, from 01.06.1988, Primary School Headmasters were given higher scale of pay. Hence, the petitioner made representation to the respondent seeking to count the service rendered in the post of Secondary Grade Teacher prior to 01.06.1988 along with the service rendered in the post of Primary School Headmaster and to grant all consequential benefits and since the same was not considered, the petitioner filed W.P.No.747 of 2012 before this Court.

11.This Court vide order dated 24.01.2012, made in W.P.No.747 of 2012, directed the respondent to consider the case of the petitioner as to whether the petitioner is eligible for grant of the relief in terms of G.O.Ms.No.216, School Education Department, dated 30.12.2011. Thereafter, the respondent issued the impugned order dated 28.12.2012 to the petitioner, rejecting the petitioner's claim on the ground that the petitioner was working in an Aided School and retired from an Aided School.

12.Since the abstract in G.O.Ms.No.216, School Education Department, dated 30.12.2011, itself makes it clear that the

benefit of the said Government Order is restricted only to Panchayat Union School Teachers, this Court is not inclined to grant the relief sought for in this writ petition.

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

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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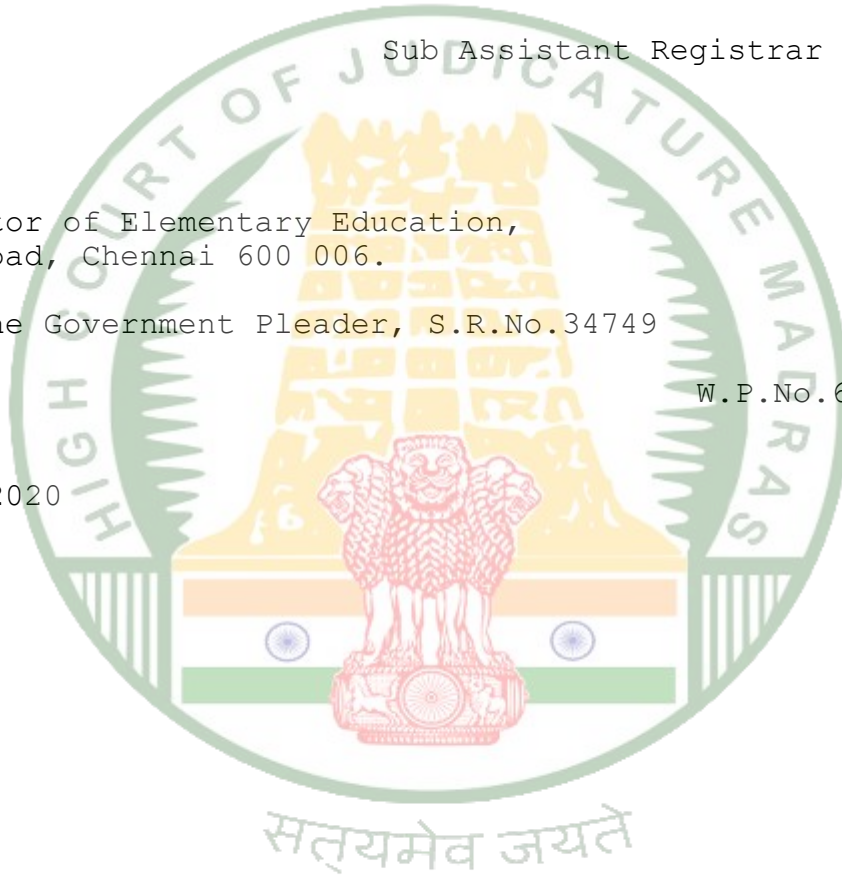
To

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

+1cc to the Government Pleader, S.R.No.34749

W.P.No.6585 of 2013

BS (CO)
CS/02/12/2020



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