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W.A.(MD)No.1001 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.08.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.A(MD)No.1001 of 2014

and

M.P(MD)No.2 of 2014

- 1.The State of Tamil Nadu,
represented by
The Principal Secretary to Government,
School Education Department,
Fort St. George, Chennai - 600 009.
- 2.The Director of Elementary Education,
College Road, Chennai - 600 006.
- 3.The District Elementary Educational Officer,
Dindigul District, Dindigul. : Appellants/Respondents

Vs.

K.Pappa Rajammal : Respondent/Writ Petitioner

Prayer : Appeal filed under Clause 15 of the Letters Patent Appeal against the order passed by this Court in W.P(MD)No.13774 of 2011, dated 05.07.2013.

Prayer in WP(MD). 13774/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, call for the records of the 3rd respondent pertaining to the orders dated 07.06.2011 in its Proceedings in OO.Mu.No.2023/A/5/ 2011 and quash the same and direct the respondents to extend the benefits of the order dated 19.03.2010 in W.P. No.3527/2010 and the order dated 21.04.2008 of the Division Bench of this Honourable High Court of Judicature at Madras in W.P.No.233/2008 which was implemented by was implemented by the Government in G.O. Ms.No.210, School Education Dept, dated 14.08.2009 and in G.O. Ms.No.230, Education Department dated 10.08.2010 within a stipulated period.

For Appellants	:	Mrs.S.Srimathy Special Government Pleader
For Respondent	:	Mrs.S.Devasena



JUDGMENT

(Judgment of the Court was delivered by **M. SATHYANARAYANAN, J.**)

The official respondents in W.P(MD)No.13774 of 2011 are the appellants.

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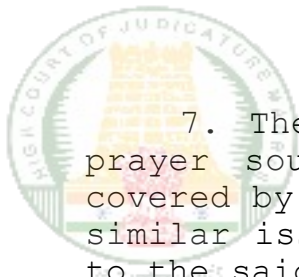
2. The respondent/writ petitioner has filed the said writ petition praying for a writ of Certiorarified Mandamus to call for the records of the third respondent pertaining to the orders dated 07.06.2011 in his proceedings in Oo.Mu.No.2023/A5/2011 and quash the same and direct the respondents to extend the benefits of the order dated 19.03.2010 in W.P.No.3527 of 2010 and the order dated 21.04.2008 of the Division Bench of this Court in W.A.No.233 of 2008, which was implemented by the Government in G.O.Ms.No.210, School Education (G1) Department, dated 14.08.2009 and G.O.Ms.No.230, Education Department, dated 10.08.2010 within a stipulated period.

3. The writ petition came to be allowed as prayed for, vide impugned order dated 05.07.2013 and challenging the legality of the same, the present writ appeal is filed.

4. It is the case of the respondent/writ petitioner that on 06.07.1960, she was initially appointed as Secondary Grade Teacher and got her promotion as Headmistress on 01.01.1974 and during the said period, she had completed B.A., Degree as well as M.Ed., Degree and acquired the required qualification for the post of Headmistress of Middle Schools at the level of B.Ed., Grade. She was given promotion as Headmistress of Middle School on 23.02.1982, taking into consideration the said qualifications and she retired from service on 31.05.1995.

5. The grievance expressed by the respondent/writ petitioner is that after amalgamation of time scale of pay of Middle School Headmasters (Secondary Grade), the time scale of pay of Middle School Headmasters (Secondary Grade) was enhanced on par with the time scale of pay of Middle School Headmasters (B.Ed., Grade, but the benefits of getting Selection/Special Grade by counting the entire previous service in the Secondary Grade and Primary School Headmasters have not been extended to the Middle School Headmasters (B.Ed., Grade).

6. Some of the Middle School Headmasters, who are aggrieved by the said non-conferment of the benefits, filed Original Applications before the Tamil Nadu Administrative Tribunal, Chennai and those applications have been decided in their favour and W.P.No.29624 of 2005 was filed for implementation of the order of the Tribunal and it was also allowed and the writ appeal preferred against the said order also came to be dismissed and therefore, prays for conferment of the said benefits.



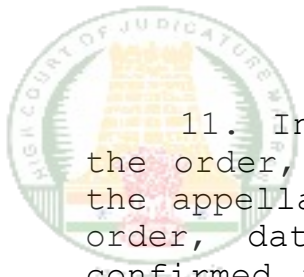
7. The learned Judge, having taken note of the fact that the prayer sought for by the respondent/writ petitioner was already covered by the decisions that came to be rendered on adjudication of similar issue, had allowed the writ petition and making a challenge to the said order, the present writ appeal is filed.

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8. Learned Special Government Pleader appearing for the appellants would submit that the respondent/writ petitioner had retired from service on 31.05.1995 and however, she filed the writ petition in the year 2011 and therefore, she is guilty of delay and laches, besides, placing reliance on G.O.Ms.No.210, School Education (G1) Department, dated 14.08.2009 and G.O.Ms.No.230, Education Department, dated 10.08.2010 and the said orders came to be passed for implementation under the pain of contempt and it cannot be cited as a precedent in all the cases, especially, in the light of the financial implication and prays for interference.

9. Per contra, the learned Counsel for the respondent/writ petitioner would submit that the matter in issue is also squarely covered by the common judgment dated 03.01.2019 passed in W.A.Nos.34 of 2017, etc., batch [**The Secretary to Government, School Education Department, Fort St. George, Chennai - 600 009 and others v. S.Stanislaus**], wherein the Division Bench of this Court has taken into consideration the relevant Government Orders as well as earlier decisions and passed a positive direction by directing the appellants/official respondents therein to grant the benefit of G.O.Ms.No.210, School Education (G1) Department, dated 14.08.2009, to all the respondents/writ petitioners therein and fix their pay in Selection Grade/Special Grade in the post of Middle School Headmaster, by counting the service rendered as Secondary Grade Teacher/Primary School Headmaster/Elementary School Headmaster, from the date of their promotion to the post of Middle School Headmaster, if they were given the same already, with all monetary benefits and the pensionary benefits with arrears till the date of his death. The said judgment has also been followed in the subsequent common judgment, dated 26.03.2019, passed in W.A.Nos.73 of 2019, etc., batch [**D.Ramasamy v. The State of Tamil Nadu, rep., by its Secretary, School Education (G1) Department, Fort St. George, Chennai - 600 009 and others**] and hence, prays for the dismissal of this writ appeal.

10. This Court, on a careful consideration of the above cited judgment, dated 03.01.2019 passed in W.A.Nos.34 of 2017, etc., batch [**The Secretary to Government, School Education Department, Fort St. George, Chennai - 600 009 and others v. S.Stanislaus**], is of the considered view that the issue to be agitated is no longer res integra and it has been decided against the appellants/official respondents and therefore, this writ appeal deserves dismissal.



11. In the result, this **writ appeal is dismissed**, confirming the order, dated 05.07.2013, passed in W.P(MD)No.13774 of 2011 and the appellants/official respondents are directed to comply with the order, dated 05.07.2013, passed in W.P(MD)No.13774 of 2011, as confirmed in this judgment, within a period of **ten weeks** from the date of receipt of a copy of this judgment and send necessary communication to the respondent/writ petitioner. No costs. Consequently, the order of interim stay granted in M.P(MD)No.2 of 2014 stands vacated and M.P(MD)No.2 of 2014 is dismissed.

Sd/-

Deputy Registrar (LA&M)

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/ /2020

Sub Assistant Registrar(CS)

RSB

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Principal Secretary to Government,
State of Tamil Nadu, School Education Department,
Fort St. George, Chennai - 600 009.
2. The Director of Elementary Education,
College Road, Chennai - 600 006.
3. The District Elementary Educational Officer,
Dindigul District, Dindigul.

+1 CC to the SPL GP (SR-14697[F] dated 21/08/2020)

W.A(MD)No.1001 of 2014

and

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CS(02.09.2020) 4P 5C