



WEB COPY

W.A(MD)No.40 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:29.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.A(MD)No.40 of 2014

in

W.P.(MD)No.235 of 2012

1.The Government of Tamil Nadu
rep. By its Principal Secretary
Department of School Education,
Fort St. George,
Chennai-600 009.

2.The Director of School Education,
College Road,
Chennai-06.

3.The Joint Director of School Education (Personnel),
College Road,
Chennai-6.

4.The Chief Educational Officer,
Nagercoil,
Kanyakumari District.

5.The District Educational Officer,
Nagercoil,
Kanyakumari District.

... Appellants/Respondents

Vs.

R.Bhakthavasalam,
Superintendent (Rtd.,)
Ramasamy Bhavan,
Mathicode,
Thikkancode Post-629 804.
Kanyakumari District.

... Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent against the common order passed by this Court dated 18.03.2013, passed in W.P.(MD)No.235 of 2012.

Prayer in WP(MD). 235/ 2012 :

<https://hcservices.ecourts.gov.in/hcservices/> Petition is filed under Article 226 of the



Constitution of India, praying this Court to issue a WRIT OF CERTIORARIFIED MANDAMUS, calling for the records of the 3rd Respondent pertaining to his proceedings in O.Mu.No.105236/A3/E2/2011, dated 09-12-2011 and quash the same and direct the Respondents to disburse selection grade pay of Superintendent Cadre as per the proceedings of the 3rd Respondent in Na.Ka.No.13897/Aa3/E2/2011, dated 24-02-2011 and pass any further or other orders as this Honourable Court may deem fit.

For Appellants : Mrs.S.Srimathy
Special Government Pleader
For Respondent : Mr.R.Subramanian

JUDGMENT

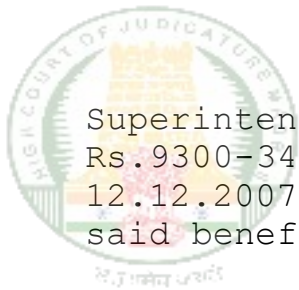
(Judgment of the Court was made by **M. SATHYANARAYANAN, J.**)

The official respondents in the writ petition are the appellants.

2.The respondent/writ petitioner had filed the said writ petition praying for issuance of writ of certiorarified mandamus to call for the records pertaining to the impugned proceedings dated 09.12.2011 and quash the same and with a consequential direction to disburse selection grade pay of Superintendent cadre, as per the proceedings of the 3rd appellant dated 24.02.2011 and pass appropriate orders.

3.It is the case of the respondent/writ petitioner that he joined as Junior Assistant on 11.07.1980 and was posted in School Education Department and got his promotion to the post of Office Superintendent on 24.04.2000 and on completion of 10 years of service in the said post, he was awarded selection grade with effect from 24.04.2010 vide proceedings of the third respondent dated 24.02.2011. It is further averred by the respondent/writ petitioner that based on the recommendations of the 6th pay commission, the Government of Tamil Nadu, G.O.Ms.No.234, Finance (Pay Cell) Department, dated 01.06.2009 has revised the pay scales of various posts including the post of Superintendents with effect from 01.01.2006 and a copy of the same is filed by the respondent/writ petitioner.

4.As per paragraph No.2(ii) of the said G.O, pay scales of
<https://hcservices.ecourts.gov.in/hcservices/>



Superintendents in Tamil Nadu Ministerial Service were revised at Rs.9300-34800 with grade pay of Rs.4,900/- with effect from 12.12.2007 and the respondent/writ petitioner was also given the said benefit with effect from 12.12.2007.

5.The respondent/writ petitioner has expressed his grievance that while issuing the said G.O, the Government has omitted to provide separate higher scales for Selection Grade Superintendents and Special Grade Superintendents and even the One Man Commission appointed to look into the similar kind of grievances did not rectify the anomaly, the first respondent issued a letter dated 30.11.2010 and provided separate pay scale for Selection Grade/Special Grade Superintendents. Accordingly, the pay scale of the respondent/writ petitioner has to be fixed at Rs.15,600-39,100+5700 grade pay with effect from 24.04.2010, whereas his grade pay was only fixed at Rs.4800 and in this regard, he has also submitted a representation dated 21.11.2011 and after considering the said representation, the third appellant, vide impugned proceedings dated 09.12.2011, has rejected the same and he made a challenge to the said proceedings by filing W.P.(MD).No.235 of 2012. The said writ petition was entertained and the 5th appellant herein has filed a counter affidavit and took a stand that based on the recommendation of the One Man Commission, the Selection Grade Scales of pay Rs.15,600-39,100 +GP 5700/- shall take notional effect from 12.12.2007 with monetary benefit from 01.08.2010 subject to the fulfilment of the condition stipulated in para No.4 of the Government Letter dated 08.11.2010 and since the petitioner was awarded selection grade with effect from 24.04.2010, he was not entitled to get the Selection Grade Scale of Rs.15,600-39100+GP 5700/-.

6.It is further pointed out that as per the clarification issued by the Finance Department's letter dated 30.11.2010, selection grade scale of pay allowed in the Sixth Pay Commission shall be available only to the employees, who were awarded selection grade prior to 01.01.2006 and who have opted to come over revised scales between 01.01.2006 and 31.05.2009 and since the writ petitioner was awarded selection grade only with effect from 24.04.2010, he was not eligible to come under the revised scale of pay and the same was informed to the respondent /writ petitioner vide impugned communication dated 09.12.2011. Therefore, the said decision cannot be interfered with and hence, he prayed for dismissal of the writ appeal.

7.The learned Judge, after taking note of the counter affidavit and rival submissions, found that in the light of the stand taken in the counter affidavit, nothing remains for further adjudication, but however, quashed the impugned proceedings in toto and allowed the writ petition.



8.The learned Special Government Pleader appearing for the appellants/respondents would submit that the learned Judge, having accepted the contentions put forth by the official respondents in the counter affidavit ought to have disposed of the writ petition accordingly, whereas, the learned Judge chose to quash the entire impugned proceedings and therefore, prays for interference.

9.Per contra, the learned counsel appearing for the respondent/writ petitioner would submit that in the light of the stand by the writ petitioner in the writ petition, the impugned proceedings are not in order and the learned Judge was right in quashing the impugned proceedings and prays for dismissal of the writ appeal.

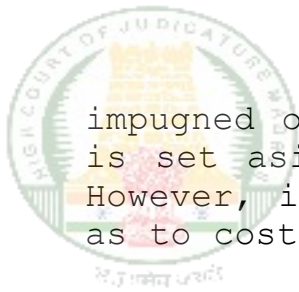
10.This Court has carefully considered the rival submissions and also perused the materials available on record carefully.

11.A perusal of the contents of the counter affidavit filed by the 5th respondent would disclose among other things that admittedly, the respondent/writ petitioner was awarded selection grade in the cadre of Superintendent with effect from 24.04.2010 vide proceedings of the third appellant dated 24.02.2011 and in the light of the clarification issued by the Finance Department vide letter dated 30.11.2010, the selection grade scale of pay in terms of Sixth Pay Commission's recommendation was allowed only in respect of the employees who were awarded selection grade prior to 01.01.2006 and between 01.01.2006 and 31.05.2009 and since the respondent/writ petitioner was awarded selection grade only with effect from 24.04.2010, he was not eligible to come under the revised scale of pay. The said stand taken by the official respondent is perfectly tenable.

12.It is also well-settled position of law that in fiscal and financial matters in terms of the policy decision, the judicial review exercisable under Article 227 of the Constitution of India is very limited and fixation of cut off date also falls within the domain of the concerned official respondents and unless the action or orders of the concerned official respondents proceeded with *malafide* and arbitrariness, this Court cannot interfere with the same.

13.Though the learned Judge, had accepted the tenability of the stand of the official respondent in the counter affidavit, had allowed the writ petition and therefore, the impugned order allowing the writ petition warrants interference.

14.In the result, the writ appeal is ordered and the



impugned order dated 18.3.2013, passed in W.P.(MD).No.235 of 2012 is set aside. Consequently, the writ petition stands dismissed. However, in the circumstances of the case, there shall be no order as to costs.

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Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vs

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,
Government of Tamil Nadu
Department of School Education,
Fort St. George,
Chennai-600 009.
- 2.The Director of School Education,
College Road, Chennai-06.
- 3.The Joint Director of School Education (Personnel),
College Road, Chennai-6.
- 4.The Chief Educational Officer,
Nagercoil, Kanyakumari District.
- 5.The District Educational Officer,
Nagercoil, Kanyakumari District.

+1 CC to Mr.R. SUBRAMANIAN, Advocate (SR-13397[F] dated 31/07/2020)

W.A(MD)No.40 of 2014

in

W.P. (MD)No.235 of 2012

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KM (13.08.2020) 5P 7C

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