



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **11.02.2020**
CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
W.P (MD)No.16800 of 2015

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P.Muthupandi

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by its Secretary to Government,
School Education Department,
Secretariat, Chennai.

2.The Director of Elementary Education,
Chennai.

3.The District Elementary Educational Officer,
Ramanathapuram District.

4.The Assistant Elementary Educational Officer,
Kadaladi,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 2nd respondent in his proceedings in Na.Ka.No.9795/D3/2015 dated .04.2015 and quash the same and consequently, direct the respondents to sanction personal pay of Rs.750/- notionally with effect from 01.01.2006 and monetary benefits with effect from 01.01.2011 as per G.O.Ms.No.23 Finance (Pay Cell) Department dated 12.01.2011.

For Petitioner	: Mr.V.Panneer Selvam
For Respondents	: Mr.N.Shanmugaselvan Special Government Pleader

ORDER

This writ petition has been filed seeking issuance of a Writ of Certiorarified Mandamus, to quash the order passed of the second respondent in his proceedings in Na.Ka.No.9795/D3/2015 dated .04.2015 and consequently, to direct the respondents to sanction personal pay of Rs.750/- notionally with effect from 01.01.2006 and monetary benefits with effect from 01.01.2011, as per G.O.Ms.No.23 Finance (Pay Cell) Department dated 12.01.2011.



2.The petitioner submits that he was appointed as Junior Grade Secondary Grade Teacher on 22.01.2001 through the Teachers Recruitment Board at Thiruvadanai Union, Ramanathapuram District. Thereafter, he was transferred to the 4th respondent union on 01.06.2004. The petitioner submits that the Government announced pay commission revision by issuing G.O.Ms.No.234, Finance (Pay Cell) Department, dated 01.06.2009 fixing the scale of pay for all the government employees as per the recommendations of the VIth Pay Commission. Since there was anomaly in the above pay fixation for Secondary Grade Teachers, One Man Commission was constituted and the Commission submitted its report to the Government. As per the recommendation of the One Man Commission, special allowances were granted to certain categories in Elementary Education/School Education Department by issuing government order in G.O.Ms.No.270, Finance (Pay Cell) Department dated 26.08.2010. One Man Commission has recommended to grant special allowance at the rate of Rs.500/- to the Secondary Grade Teachers and other teaching posts in the grade of Secondary Grade Teacher. Not satisfied with the same, the Teachers' Association raised their objection and demanded for pay equal to the teachers working in the Central Government Schools. Considering the same, the Government issued G.O.Ms.No.23, Finance (Pay Cell) Department dated 12.01.2011 granting personal pay of Rs.750/- by enhancing from the special allowance of Rs.500/- and the same was implemented by granting personal pay of Rs.750/- to the Secondary Grade Teachers by re-fixing the scale of pay and the same was given with effect from 01.01.2006 notionally, but monetary benefits only with effect from 01.01.2011. The petitioner made representation to sanction the personal pay of Rs.750/- by implementing the above government order in G.O.Ms.No.23, Finance (Pay Cell) Department dated 12.01.2011. Since the representation was not considered, the petitioner came forward with the writ petition in W.P(MD)No.1744 of 2015 for a Mandamus to direct the respondent to pay the personal pay of Rs.750/- with effect from 01.01.2006 notionally and monetary benefits with effect from 01.01.2011 as per the above Government Order and this Court disposed of the above writ petition by order dated 12.02.2015 directing the respondents to consider the petitioner's representation which was rejected by the respondents by an order dated 04.05.2015 on the ground that he has not received Rs.500/- as special allowance as per G.O.Ms.No.270 and therefore, challenging the said order, the petitioner has filed the present writ petition.

3.Learned Additional Government Pleader appearing for the respondents would state that since the petitioner was not in the post of Secondary Grade Teacher on the date of issuing G.O.Ms.No.23, Finance (Pay Cell) Department dated 12.01.2011, he is not entitled for the personal pay of Rs.750/- and would pray that the interference of this Court is not necessary.

4.Heard the learned counsel for the petitioner as well as the learned counsel for the respondents. Additional Government Pleader appearing for the respondents.



5.Perusal of records shows that G.O.Ms.No.23, Finance (Pay Cell) Department was issued only on 12.01.2011 granting the benefit by giving retrospective effect from 01.01.2006 and therefore, the reason for rejection that as on the date of issuing the said G.O., the petitioner was not a Secondary Grade Teacher, cannot be acceptable as notional payment has been given from 01.01.2006 itself. If a teacher continued in the same post, he is entitled to get the benefit, but if a teacher was given promotion, he is not entitled to get the benefits which is totally contrary to the basic principle. If that is accepted, the teacher continued in the same post will get more pay than the promoted teacher. The juniors working in the same post without any promotion were getting higher pay only because of the reason that at the time of issuance of the Government Order, they were holding the post of Secondary Grade Teacher. Therefore, the issue was raised before this Court and it was decided by this Court in W.P(MD)No.19240 of 2014 dated 02.01.2018 allowing the benefits of personal pay of Rs.750/- till the date of promotion. After promotion, the personal pay will be merged with the basic pay and therefore, the petitioner is not entitled to get personal pay separately after promotion. Hence, the issue is covered by the decision of this Court as stated supra. The petitioner also stands in the same footing and he is entitled for the benefit of personal pay of Rs.750/- notionally with effect from 01.01.2006 as per G.O.Ms.No.23, Finance (Pay Cell) Department dated 12.01.2011 till the date of promotion that is 02.06.2009 and thereafter the same will be merged with the basic pay while fixing the pay in the promotional post. The relevant portion of the order in W.P(MD)No.19240 of 2014 dated 02.01.2018 is extracted below:-

"4.I went through the contents of the counter filed by the third respondent. Following the implementation of the sixth pay commission's recommendations, there arose certain pay anomalies. The Government of Tamil Nadu constituted a One Man Commission vide G.O.Ms.No.444, Finance (PC) Department dated 09.09.2009. The Secondary Grade Teachers had been agitating that they had been dealt with unfairly. Therefore, the said One Man Commission made a recommendation for grant of Special Allowance of Rs.500/- per month to them. The said recommendation was accepted by the Government and the Government issued G.O.Ms.No.270, Finance (Pay Cell) Department dated 26.08.2010. Still, the Secondary Grade Teachers were not satisfied. Therefore, this amount was enhanced to Rs.750/-.

5.It was made clear that both the Government Orders shall take notional effect from 01.01.2006 and monetary effect from 01.08.2010 and 01.01.2011 respectively. It is seen that the writ petitioner herein was promoted from the post of Secondary Grade Teacher to the post of B.T. Assistant on 02.06.2010 itself. In other words, he



ceased to be a Secondary Grade Teacher from the said date. He was working as a B.T Assistant when G.O.Ms.No.270, dated 26.08.2010 was issued.

6.In the counter affidavit, it has been conceded that the writ petitioner was given Special Allowance of Rs.500/- on notional basis till the date of his promotion as B.T.Assistant. In other words, the writ petitioner was given the benefit of G.O.Ms.No.270, dated 26.08.2010. In the counter affidavit, a stand is taken to the effect that the writ petitioner is not entitled to claim benefit in terms of G.O.Ms.No.23, dated 12.01.2011, since she was not a Secondary Grade Teacher by then. This is clearly self contradictory. G.O.Ms.Nos.270 dated 26.08.2010 and G.O.Ms.No.23, dated 12.01.2011 cannot be separated from one another.

7.Vide G.O.Ms.No.270, dated 26.08.2010, a sum of Rs.500/- has been granted as Special Allowance. In G.O.Ms.No.23, dated 12.01.2011, the said sum of Rs.500/- was enhanced to Rs.750/- and the department thought it fit to apply G.O.Ms.No.270 dated 26.08.2010 in favour of the writ petitioner. It cannot therefore be heard to say that it will not apply G.O.Ms.No.23, dated 12.01.2011.

8.In this view of the matter, I have no hesitation to hold that the writ petitioner is entitled to Personal Pay of Rs.750/- on notional basis with effect from 01.01.2006 till 02.06.2010, when he was promoted as B.T.Assistant. The question of granting monetary benefit in terms of the said Government Orders will not arise because, she was no longer a Secondary Grade Teacher by then. The respondents 3 and 4 are directed to include the sum of Rs.750/- in the pay of the writ petitioner as Secondary Grade Teacher with notional effect from 01.01.2006 till 02.06.2010 when he was promoted as B.T.Assistant.

6.The above case is squarely applicable to the present facts and circumstances of this case. Therefore, I am inclined to interfere with the impugned order. Accordingly, the impugned order passed by the 2nd respondent in his proceedings Na.Ka.No.9795/D3/2015 dated .04.2015 is quashed and the respondents are directed to give the benefit of personal pay to the petitioner at Rs.750/- notionally with effect from 01.01.2006 as per G.O.Ms.No.23, Finance (Pay Cell) Department dated 12.01.2011 till the date of promotion that is upto 02.06.2009 and thereafter the same is directed to be merged with the basic pay while fixing the pay in the promoted post and such an exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.



7.With the above direction, the writ petition is allowed. No costs.

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Sd/-

Assistant Registrar (records)

/ /2020

Sub Assistant Registrar(CS)

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To

1.The Secretary to Government,
The State of Tamil Nadu,
School Education Department, Secretariat, Chennai.

2.The Director of Elementary Education,
Chennai.

3.The District Elementary Educational Officer,
Ramanathapuram District.

4.The Assistant Elementary Educational Officer,
Kadaladi, Ramanathapuram District.

+1 CC to M/s.V.PANNEER SELVAM, Advocate (SR-5948[F] dated 12/02/2020)

+1 CC to M/s.SPL.GP (SR-6108[F] dated 13/02/2020)

ORDER MADE IN
W.P (MD) No.16800 of 2015
11.02.2020
(1/3)

MK (12.06.2020) 5P 7C