



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2021

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P. NOS.10078 OF 2009, 20182 OF 2010 & 10218 OF 2011
AND
MP. NO.1 OF 2010

R.Tamizhmani

...Petitioner in W.P. No.10078 of 2009

Selvi S.Annamani

...Petitioner in W.P. No.20182 of 2010

- 1.N.Jayaraman
- 2.V.Vasudevan
- 3.R.Natarajan
- 4.M.Sivaraj
- 5.A.Sangama Reddy
- 6.R.Rajagopal
- 7.S.Tamilarasi
- 8.C.Ravichandran
- 9.M.Ilanchelian
- 10.D.Jegannathan

...Petitioners in W.P. No.10218 of 2011

Vs.

1. The Special Secretary to Government,
School Education Department,
Fort St. George, Chennai -9.
2. The Director of Elementary Education,
College Road, Chennai -6.

...Respondents
in W.P. Nos.10078 of 2009 & 10218 of 2011
1st & 2nd respondents in W.P. No.20182 of 2010

3. The Additional Assistant Elementary
Educational Officer, Andhanallur @
Mutharasanallur, Trichy District.

...3rd respondent in W.P. No.20182 of 2010



Common Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus to call for records pertaining to the orders of the 1st respondent in his letter No.(D) 356 dated 03.08.2004 and the consequential order of the 2nd respondent in Na.Ka.No.027420/I3/08 dated 28.10.2008, consequential order of the 3rd respondent in O.Mu.No.72/A2/09 dated 06.08.2010 and quash the same and further direct the respondents to sanction one bonus increment in terms of the G.O.No.562 Finance (Pay Cell) Department dated 28.9.1998.

For Petitioners : Mr.S.Kamadevan
for all the above WPs

For Respondents : Mr.C.Selvaraj
Government Advocate
for all the above WPs

O R D E R

The petitioners in these writ petitions were recruited to the post of BT Middle School Head Masters in the years 1972 (W.P.Nos.10078 of 2009 and 20182 of 2010) and 1995 (W.P.No.10218 of 2011). The career path of a BT Middle School Headmaster is more or less consistent over its tenure. This situation is not unique to the field of education alone but is echoed in various other avenues of service, where, once recruited, the employee continues in the same position acquiring seniority in terms of duration, but very little, if any, upward mobility in terms of growth within the organisation. This scenario is referred to as 'stagnation' and in order to suitably recompense an employee who has stagnated in the same post for many years, the Government issued G.O.(Ms).No.562 dated 28.09.1998 entitling them to enhanced grades of pay upon completion of every decade of service.

2. Upon completion of ten years of tenure as Middle School Head Master, the petitioners became entitled to and had received the benefit of Selection Grade pay and upon completion of twenty years, the benefit of Special Grade pay. This is an admitted position. While in their third decade of service, the petitioners were transferred to the post of Assistant Elementary Education Officer (AEE0).

3. According to the petitioners, upon completion of thirty years of service, they are entitled to Super Grade Pay in line with the ratio of G.O.(Ms).No.562 dated 28.09.1998. The G.O. states as follows:



FINANCE (PAY CELL) DEPARTMENT

G.O. (Ms) NO. 562, Dated 28th September 1998
(Vegathanya, Puratasi 12, Thiruvalluvar Aandu, 2029)

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One Man Commission - Recommendations of the One Man commission - Grant of one Bonus increment to employees stagnating in a post beyond 30 years - Orders - Issued.

Read :-

1. G.O. (Ms) No.162, Finance (PC) Department, dated 13.4.1998.
2. G.O. (Ms) No.170, Finance (PC) Department, dated 21.4.1998.

ORDER:

Representations have been made by several employees associations before the One Man Commission constituted in the Government Order second read above for opening an avenue viz., Super Grade or Senior Grade for those employees who have completed 30 years of service in the same post above the existing Special Grade. The One Man Commission among other things has recommended that employees stagnating in a post beyond 30 years i.e. employees stagnating in Special Grade beyond 10 years be granted with one bonus increment with a view to keep the employees vibrant and active during the fag end of their service.

2. The Government after careful examination of the recommendations of the One Man Commission has decided to accept it. Accordingly, Government directs that employees stagnating in a post beyond 30 years i.e. employees stagnating in the Special Grade beyond 10 years be granted with one bonus increment as an incentive.

3. These orders shall take effect from 1st September 1998.'

4. Accordingly and upon completion of thirty years, the petitioners sought Super Grade Pay and made representations in this regard. The representations came to be rejected on 28.10.2008 based on the clarification that had been issued by the first respondent/The Special Secretary to Government dated 03.08.2004.

5. The sum and substance of the impugned clarification dated 03.08.2004 is that, upon transfer of a BT Middle School Head Master to the post of AEE0, the benefit of Super Grade pay is lost. This, according to R1, is for the reason that the functions rendered by the two officials are different and



bearing in mind the difference in the nature of duties and the roles assumed, there cannot be said to be 'stagnation' which is the basis of entitlement to Super Grade pay.

6. The petitioners would argue that the posts of Middle School Head Master and AEE0 are one and the same in terms of scale of pay and thus, there is no justification whatsoever for the rejection of their demands.

7. The case of the respondent, however, hinges upon the difference in functionality involved in the two posts. Since, according to them, the post of BT Middle School Headmaster and AEE0 involve the rendition of different functions, there is no question of stagnation and the benefit under G.O.(Ms).No.562 of 1998 is unavailable to the petitioners.

8. I am of the view that the approach of the respondents is misconceived and G.O.No.562 dated 28.09.1998 has not been understood by them in the proper manner. The purpose of the aforesaid G.O. is to provide some solace by way of incentive or bonus to an individual who has been receiving the same scale of pay year on year, for ten years, continuously. The purpose is specifically to compensate an individual for stagnation. The term 'stagnation' must, in the present case, be understood to refer to two facets of employment, hierarchy as well as pay.

9. It is an admitted position that the scales of pay qua a BT Middle School Head Master and an AEE0 are one and the same. In fact, the two positions have been equated in the case of Director of Elementary Education, Chennai and others Vs. S.Amel Antony and others (2001-Writ L.R.562) by a Division Bench of this Court where, at paragraph No.5, the Bench states that the two posts (i.e., AEE0 and Head Master/Head Mistress of Middle School) are identical and on the same level. One post is not inferior or superior to the other. The Bench also goes on to note that admittedly the pay scales for both posts is identical. This is on the one hand.

10. Secondly, and as far as hierarchy is concerned, there is, admittedly no upward mobility for the employee in question and the employee stays put in the same cadre of employment.

11. However, the meaning accorded to the term 'stagnation' by the respondents is in the context of 'activity' or 'functions rendered'. This is a flawed interpretation. No doubt, the two posts of BT Middle School Head Master and AEE0 involve the rendition of different functions and activities. However, this is irrelevant to determine the eligibility to Super Grade pay. What is required to be seen is whether one has stagnated in the same scale of pay for a period of ten years. That is the, be all and end all, of G.O.No.562 dated



28.09.1998. In this case, the petitioners, admittedly, satisfy that condition. The respondents have all but conceded to the aforesaid position, as may be seen from paragraph 6 of the counter affidavit, wherein, the third respondent states that 'Even though the post of the middle school Headmaster and the Assistant Elementary Education Officer carries identical scale of pay but the nature of work is different and they are not same post'.

12. In light of the aforesaid admission and in the light of the discussion in the preceding paragraphs, the petitioners are entitled to succeed. The impugned orders are set aside and the consequential benefits will enure to the petitioners, to be paid over to them within a period of four (4) weeks from today, seeing as all the petitioners are stated to be senior citizens as on date.

13. These Writ Petitions are allowed. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-IV)

// True Copy //

Sub Assistant Registrar

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To

1. The Special Secretary to Government,
School Education Department,
Fort St. George, Chennai -9.
2. The Director of Elementary Education,
College Road, Chennai -6.
3. The Additional Assistant Elementary
Educational Officer, Andhanallur @
Mutharasanallur, Trichy District.

+1cc to the Government Pleader, S.R.No.42670

W.P. Nos.10078 of 2009, 20182 of 2010 & 10218 of 2011
and
MP. No.1 of 2010

PCH(CO)
RLP(27/09/2021)