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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2021

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THE HON'BLE MR.JUSTICE R. SURESH KUMAR

Writ Petition No.16007 of 2010

T.V.Nagaraj

... Petitioner

-Vs-

1.State of Tamil Nadu, rep.by its Secretary
Department of School Education, Fort St.George
Chennai.

2.The Director of Elementary Education
College Road, Nungambakkam, Chennai.

3.The Chief Educational Officer
Villupuram.

4.The District Educational Officer
Villupuram, Villupuram District.

5.The Accountant General
259, Anna Salai, Block No.3, II Floor
DMS Compound, Chennai 600 018.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents to grant Selection Grade and Special Grade pay as per the V Pay Commission recommendation on and from 1.6.1988 and fix the scale of pay and pension on that basis.

For Petitioners :Mrs.J.Anandavalli

For Respondents :Mr.S.SureshKumar, Government Advocate
- for RR 1 to 4
Mr.V.Vijay Shankar - for R5

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents to grant Selection Grade and Special Grade pay as per the V Pay Commission recommendation on and from 1.6.1988 and fix the scale of pay and pension on that basis.

2. The petitioner was appointed as Higher Grade Teacher with effect from 03.04.1968 by the order of the Block Development



Officer dated 02.04.1968. Thereafter, from 1971, he has been re-designated as Secondary Grade Teacher and he had been working in that capacity for 20+ years and then he was promoted as Secondary Grade Headmaster and thereafter he was promoted as B.T Grade Middle School Headmaster from 07.03.1985. After rendering service for 37 years, he retired on superannuation on 30.09.2005.

3. In this context, it is the further case of the petitioner that, all of those who have completed 10 years of service, should have been conferred with Selection Grade and in that capacity of Selection Grade if he completed further 10 years of service, he will be considered for conferring the status of Special Grade. In this context, it is the grievance of the petitioner that, since the petitioner joined the service in 1968 he should have been conferred the status of Selection Grade in 1978 and Special Grade in 1988, however such conferments were given to him only on 01.01.1981 and 01.01.1991 respectively, ie., after three years. By virtue of the same, the correct pay as per the relevant 5th and 6th Pay Commission has not been fixed to him and therefore, to rectify the anomaly, the petitioner, though had given a representation to the respondents on 14.08.2009, the same since has not been considered, the petitioner has approached this Court, by filing the present writ petition with the aforesaid prayer.

4. Heard the learned counsel for the petitioner, who has reiterated the aforesaid facts and would submit that, since the petitioner was eligible to be conferred with Selection Grade and Special Grade after 10 years and 20 years service in the years 1978 and 1988 respectively, that was belatedly conferred only in the year 1981 and 1991. Therefore, correspondingly there has been anomaly in the fixation of pay at various pay stages under various Pay Commission Recommendations and therefore, in order to sort out the issue and to remove the anomaly, the petitioner had given a detailed representation and since that was not considered, he seeks the indulgence of this Court to issue suitable directions in this regard.

5. Learned counsel for the petitioner would also submit that, similarly placed persons more than 60 in number, have approached the Tamil Nadu Administrative Tribunal and got suitable relief by order dated 17.04.2002, which order was implemented by the respondents. Therefore, the petitioner is also similarly placed and he is also entitled to the same relief, he contended.

6. Per contra, Mr.S.Suresh Kumar, learned Government Advocate appearing for the respondents has relied upon the following averments made in the counter affidavit.



Category	Date of award of Selection Grade / Special Grade	Scale of Pay
Secondary Grade & Elementary School Headmaster	01.01.1981	400-15-499-20-659-25-700
-do-	 01.01.1991	1640-6-2600-75-2900
Middle School Headmaster	07.03.1995	2000-60-2300-75-3200 (V Pay Commission)
-do-	 20.03.2005	9100-275-14050 (VI Pay Commission)

3. It is respectfully submitted that the Selection Grade and Special Grade entitled to the petitioner were awarded to him as indicated above and there is no due of Selection Grade and Special Grade according to the Vth Pay Commission..

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7. With regard to the averments made in para 7 of the affidavit, it is respectfully submitted that even though the petitioner was appointed initially as Higher Grade Teacher, the services rendered by him as such from 1.1.1971 to 31.5.1972 has been regularized respectively as Secondary Grade Service in accordance to the orders issued in G.O.Ms.No.347, School Education Department, dated 15.09.1998 and the consequential benefits were already given to him and necessary entries were made to that effect in page Nos.16&17 of Vol.4 of the Service Register of the petitioner"

7. By relying upon the above averments, the learned Government Advocate submitted that, though the petitioner had been initially appointed in the year 1968 as Higher Grade Teacher, he was posted as Secondary Grade Teacher only on 01.01.1971. Therefore, the period between 01.01.1971 to 31.05.1972 has been regularized respectively as Secondary grade service in accordance with the orders made in this regard in G.O.Ms.No.347, School Education Department dated 15.09.1998. Therefore, according to the regularization of his service as Secondary Grade Teacher only from 01.01.1971, ten years service was calculated and accordingly Selection Grade was conferred on 01.01.1981. Likewise, from 01.01.1981 ten years service was calculated and Special Grade was conferred on 01.01.1991.



Therefore, based on such conferment, pay was fixed and therefore, no anomaly arises in this case and the prayer sought for in this writ petition cannot be considered and if at all the petitioner has given any representation as claimed by him, a copy of the same can be forwarded which would once again be considered and necessary orders to that effect would be passed.

8. I have considered the submissions made by the learned counsel appearing for both sides and have perused the materials placed on record.

9. It is an admitted case that, the petitioner was appointed as Higher Grade Teacher with effect from 03.04.1968 and only the re-designation as Secondary Grade Teacher was made in 1971. Therefore, it cannot be treated as a separate service. Therefore, the service rendered from day one ie., when he joined the service should be reckoned for conferment of the status of Selection Grade and Special Grade and therefore, if the said date of 03.04.1968 is taken into account, he should have been conferred Selection Grade on 03.04.1978 and thereafter Special Grade on 03.04.1988 and if such conferment had been made to the petitioner, correspondingly his pay anomaly as claimed by the petitioner also could have been rectified.

10. In this regard, based on the prima facie case as projected by the petitioner, which cannot be disputed, since admittedly the petitioner joined in service on 03.04.1968 and similarly placed persons have already been given the benefit pursuant to the orders passed by the Tamil Nadu Administrative Tribunal in O.A.No.3521 of 1997 etc., batch dated 17.04.2002, I am of the view that, the request made by the petitioner dated 14.08.2009 can very well be considered by the respondents in the light of the aforesaid discussion and orders to that effect can be passed.

11. In the result, this writ petition is disposed of with the following orders.

There shall be a direction to the respondents to consider the representation of the petitioner dated 14.08.2009 and pass orders thereon on merits and in accordance with law, of course by taking into account the order passed by the Tribunal referred to above as well as the discussion made herein above and the needful as indicated above shall be completed by the respondents within a period of eight weeks from the date of receipt of a copy of this order. Since the representation is of the year 2009, a copy of the same shall be sent by the petitioner to the respondents along with a copy of this order within a period of two weeks and on receipt of the same, the needful as indicated above shall be undertaken by the respondents within a period of



six weeks thereafter.

12. With the above directions, this writ petition is disposed of. No costs.

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Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

KST

To

- 1.The Secretary,
State of Tamil Nadu,
Department of School Education, Fort St.George
Chennai.
- 2.The Director of Elementary Education
College Road, Nungambakkam, Chennai.
- 3.The Chief Educational Officer
Villupuram.
- 4.The District Educational Officer
Villupuram, Villupuram District.
- 5.The Accountant General
259, Anna Salai, Block No.3, II Floor
DMS Compound, Chennai 600 018.

+1cc to Mr.G.Sumitra, Advocate, S.R.No. 18829
+1cc to the Government Pleader, S.R.No. 18590

W.P.No.16007 of 2010

GPL(CO)
GN(20/07/2021)