

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.07.2021

PRONOUNCED ON : 22.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.4342 of 2018

R.Loordu Pappu

... Petitioner

Vs.

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

2.The Director School Education,
(Higher Secondary),
College Road, Nungambakkam,
Chennai-600 006.

3.The District Education Officer,
Thiruvallur District,
O/o. The District Education Officer,
Ponneri-601 204.

4.The Correspondent,
Sagayamatha Girls Higher Secondary School,
Minjur, Chennai-601 203.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent passed in Na.Ka.No.3901/A3/2015, dated 15.05.2017, quash the same and consequentially direct the respondents to pay the arrears of the

retirement benefits and pension benefits, together with interest for the delayed payment.

For Petitioner : Mr.M.L.Ramesh
For Respondent : Mr.K.Tippu Sultan, GA
Nos.1 to 3 Counsel for Government
For Respondent : Mr.Manoj Kumar
No.4

ORDER

The present Writ Petition is heard through Video Conferencing on 14.07.2021.

2. Heard Mr.M.L.Ramesh, learned counsel appearing for the petitioner and Mr.K.Tippu Sultan, learned Government Advocate appearing on behalf of the respondents 1 to 3, as well as Mr.Manoj Kumar, learned counsel for the fourth respondent.

3. The petitioner herein, who had served as a Special Grade Teacher in a Government Aided School and retired on 30.04.2014, requested for higher pay and pensionary benefits in conformity with G.O.Ms.62, Finance (CMPC) Department, dated 09.03.2015. The third respondent herein had passed the impugned order dated 15.05.2017, contending that the provisions of G.O.Ms.62 dated 09.03.2015, has been amended in G.O.Ms.No.96, Finance (CMPC)

Department, dated 17.03.2016 and as per the amended Government Order, the petitioner would not be entitled to monetary benefits of G.O.Ms.No. 62 dated 09.03.2015. Challenging the said order, the present Writ Petition has been filed.

4. It is the contention of the learned counsel for the petitioner that the reason adduced by the third respondent in the impugned order cannot be sustained in view of the Hon'ble Full Bench decision passed in the case of ***The Government of Tamil Nadu, rep. by its Secretary, School Education Department, Fort St. George, Chennai and Others Vs. G.Eswaran and Others*** passed in ***Review Application No.227 of 2015 dated 09.12.2016***, wherein the Hon'ble Full Bench had held that as per G.O.Ms.No.216, Finance (PC) Department, dated 22.03.1993, the Secondary Grade Teachers are entitled to Selection Grade/Special Grade on par with the Primary School Headmasters with effect from 01.06.1988.

5. The learned Government Advocate on the other hand, placed reliance on the averments made in the counter affidavit and submitted that as per G.O.Ms.No.96, dated 17.03.2016, the Secondary Grade Teachers cannot be considered for promotion as Elementary School/Middle School Headmasters under the Directorate of Elementary Education and they are not entitled for

promotion in the High School/Higher Secondary School and similarly they are not entitled for Selection Grade/Special Grade by taking into account of their services rendered in the post of Secondary Grade Teacher in the Higher Secondary School for the purpose of promotion to the post of Elementary School Headmaster and therefore, the petitioner is not entitled for the benefit of G.O.Ms.No.96, dated 17.06.2016.

6. The applicability of the relevant Government Order in the case of the Secondary Grade Teachers, like that of the petitioner herein, came up for consideration before the Hon'ble Full Bench of this Court in the case of *G.Eswaran (supra)*, in which it was held that the benefits of G.O.Ms.216 dated 22.03.1993, have to be extended to all the Secondary Grade Teachers of High/Higher Secondary Schools on par with the Primary School Headmasters. Incidentally, when contradictory views were taken by different Division Benches of this Court with regard to the applicability of G.O.Ms.No.62, dated 09.03.2015, in which the Secondary Grade Teachers were granted scale of pay on par with Primary School Headmasters, the Government had passed G.O.Ms.No.96, dated 17.06.2016, amending the provisions of G.O.Ms.No.62, dated 09.03,2015. Incidentally, through G.O.Ms.No.216 dated 22.03.1993, an uniform scale of pay for all the Secondary Grade

Teachers was introduced, thereby bringing the salaries of the Secondary Grade Teachers on par with the Primary School Headmasters. The relevant portion of the order of the Hon'ble Full Bench reads as follows:-

"27. The petitioners, who came forward with the various 46 Writ Petitions, seeking to extend the benefits of G.O.Ms.No.216 Finance (PC) Department dated 22.3.1993, were Secondary Grade Teachers working in the Government High Schools and Higher Secondary Schools. Their services are governed by the Tamil Nadu Educational Subordinate Service Rules and are under the control of the Directorate of School Education. According to them, by virtue of G.O.Ms.No.216, 22.3.1993 they are entitled to Selection Grade/Special Grade on par with the Primary School Headmasters with effect from 1.6.1988, i.e. from the date on which, higher pay scale was given to the Primary School Headmasters by way of awarding Selection/Special Grade by counting their total service.

...

35. As we confirmed that the benefits of G.O.Ms.No.216 have to be extended to all the Secondary Grade Teachers of High/Higher Secondary Grade Schools on par with the Primary School Headmasters, it is for the Government to

implement the order. It appears that having issued the G.O.Ms.No.216 and having faced the contempt proceedings, the Government is more concerned about the implementation of the G.O. rather to agitate the said G.O. According to the statistical data submitted by the Government, there were 30273 Secondary Grade Teachers in Government High/Higher Secondary Schools during the period 1989-90 and 13675 PET/Special Teachers (in total 43948) were in service as on 30.09.1989 and if the implementation of the G.O. is carried out, the expenditure would approximately more than 500 Crores of rupees, which would result in heavy financial constraints and consequently drain the financial position of the State.

...

38. Today, when the matters are taken up for consideration, keeping in mind the financial strain that would fall on the State exchequer in the event of implementation of the G.O., and in order to give a quietus to the issue, we feel it appropriate to fix the date as 01.03.2017 from which date onwards, the Government shall calculate and revise the pension and family pension (without arrears) based on the revised scales of pay by implementing the G.O., for which, the learned 56 Advocate General and the learned counsels appearing for the Teachers have fairly acceded to the same. Accordingly, we pass

the following:

i) The Government is directed to implement the G.O.Ms.No.216, dated 22.3.1993 for the period between 1.6.1988 and 31.12.1995, on and from 1.3.2017 onwards in respect of all the Secondary Grade Teachers of High/Higher Secondary Schools including the Special Teachers who attained Selection grade/Special Grade during the above said period, on par with the pay scale of Primary School Headmasters;

ii) Consequently, the Government shall calculate and revise the pension of those who retired from service and revise the family pension in respect of those who expired, based on the revised scales of pay in terms of G.O.Ms.No.216, dated 22.3.1993 payable on and from 1.3.2017;

iii) It is made clear that the beneficiaries under this order, are not entitled to the arrears of revised pay 57 scales;

iv) It is further made clear that the benefits as directed above, shall be extended to the parties who are before this Court alone and no fresh Writ Petitions would be entertained on and from 09.12.2016;

v) The Government is directed to expedite the process of calculating and fixing the revised pension and family pension and we do hope that the Government will complete the same as early as possible without making any further delay;

vi) All the matters which are at SR stage

and listed before this Court are also ordered and disposed of by this common order and consequently, connected MPs thereof, are ordered;"

7. A co-joint reading of the findings reveals that the Hon'ble Full Bench had rendered G.O.Ms.No.96, dated 17.06.2016 redundant, since it has been held therein that the Secondary Grade Teachers shall be entitled for the benefits of G.O.Ms.No.216, dated 22.03.1993, whereby the petitioners therein would be entitled for Selection Grade/Special Grade on par with the Primary School Headmasters. Furthermore, the Government had subsequently passed G.O.Ms.No.27, School Education 3(1) Department, dated 06.02.2017, ratifying the ratio held by the Hon'ble Full Bench in *G.Eswaran's case (supra)*.

8. In this background, the action of the third respondent herein, in rejecting the petitioner's claim through the impugned order dated 15.05.2017 cannot be sustained, since the reliance was placed therein on G.O.Ms.62 dated 09.03.2015, for rejecting the petitioner's claim and in view of the decision of the Hon'ble Full Bench, as well as the observations of this Court that the very Government Order in G.O.Ms.No.62, dated 09.03.2015, has been made redundant by the Hon'ble Full Bench, the impugned order

cannot be sustained.

9. Accordingly, the impugned order dated 15.05.2017 passed by the third respondent, is hereby quashed. Consequently, there shall be a direction to the respondents to pay the arrears of retirement benefits and pension as claimed by the petitioner in her representation dated 25.04.2015 and disburse the monetary benefits, atleast within a period of eight weeks from the date of receipt of a copy of this order.

10. The Writ Petition stands allowed. There shall be no orders as to costs.

22.07.2021

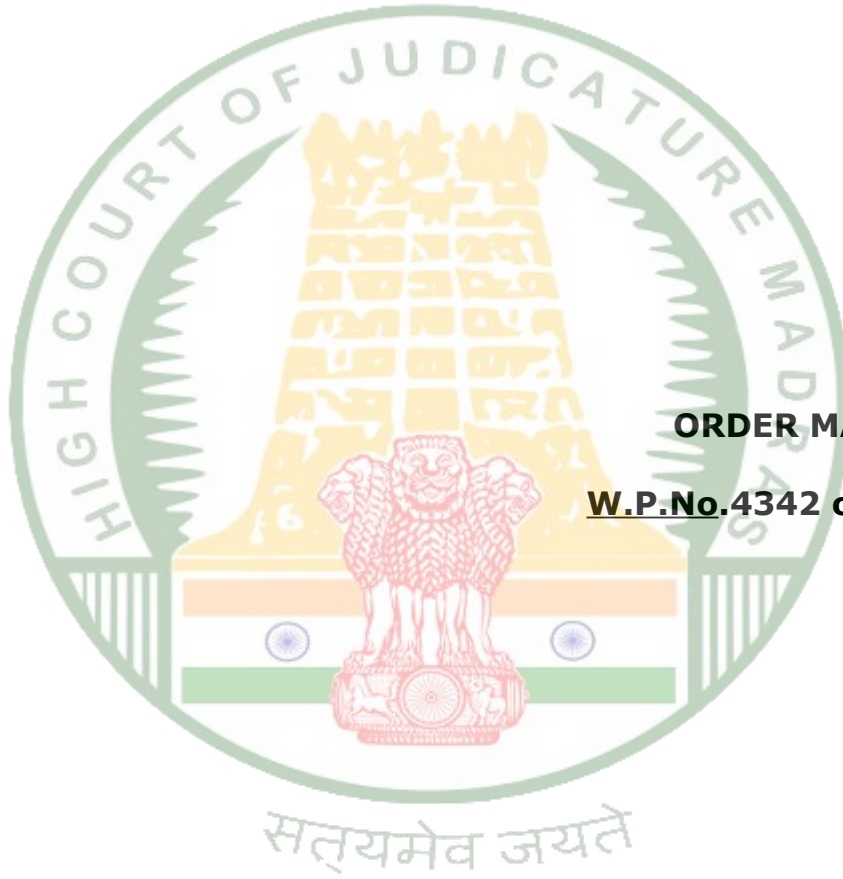
Index:Yes
Order: Speaking
DP

To

- 1.The Secretary,
Government of Tamil Nadu,
School Education Department,
Secretariat, Fort St. George,
Chennai.
- 2.The Director School Education,
(Higher Secondary),
College Road, Nungambakkam,
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- 3.The District Education Officer,
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Ponneri-601 204.

M.S.RAMESH.J,

DP



ORDER MADE IN

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