

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.8030 of 2021
(Heard through VC)

A.Stanley Ebinezer

.. Petitioner

-vs-

1.The Secretary to Government,
Tamil Nadu School Education Department,
Secretariat,
Chennai - 600 009.

2.The Director of School Education,
Directorate of school Education,
College Road,
Chennai - 600 006.

3.The Director,
State Council of Educational Research and Training,
College Road,
Chennai - 600 006.

.. Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the respondents 2 and 3 to extend the service monetary benefits to in favour of the petitioner by considering the petitioner's representation dated 19.12.2018 and 19.08.2020.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondents : Mr.P.Raja
Government Advocate

O R D E R

The writ petition has been filed seeking a direction to the respondents 2 and 3 to extend the service monetary benefits to in favour of the petitioner by considering the petitioner's representations dated 19.12.2018 and 19.08.2020.

2. Mr.P.Raja, learned Government Advocate takes notice on behalf of the respondents.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. According to the petitioner, he was working in the 3rd respondent department as Reader and retired from service on 28.02.1989. After his retirement, a Government Order has been passed in respect of re-fixation of seniority. After delivery of the judgment of the Apex Court dated 28.04.1998, G.O.Ms.No.130 dated 08.08.2006, G.O.Ms.No.156 dated 22.07.2008, G.O.Ms.No.272 dated 26.10.2012 and G.O.Ms.No.120 dated 29.06.2016 were came to be passed by the first respondent. In view of the above said Government Orders, he was given notional promotion as Joint Director in the 3rd respondent department right from 25.11.1985. However, the pay fixation was not re-fixed on par with the promotion awarded in his favour through the said Government Orders. Therefore, the petitioner made a representation dated 19.12.2018 to the 2nd respondent for re-fixation of monetary benefits on par with the promotion given in his favour. As there was no reply, once again he sent a representation dated 19.08.2020 to the respondents 2 and 3. However, they have not considered his representation so far. Hence, the petitioner has approached this Court.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representations are already pending with the respondent Nos.2 and 3, the writ petition is disposed of with the following directions:

i) A direction is issued to the respondent Nos.2 and 3 herein to consider the representations of the petitioner dated 19.12.2018 and 19.08.2020, if not already disposed of and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 60 days from the date of receipt of a copy of this order.

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the respondent Nos.2 and 3 shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representations dated 19.12.2018 and 19.08.2020 and this order, to the respondent Nos.2 and 3 forthwith;

v) The respondent Nos.2 and 3 are directed to communicate the decision taken on the representations, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rsi

To

1.The Secretary to Government,
Tamil Nadu School Education Department,
Secretariat,
Chennai - 600 009.

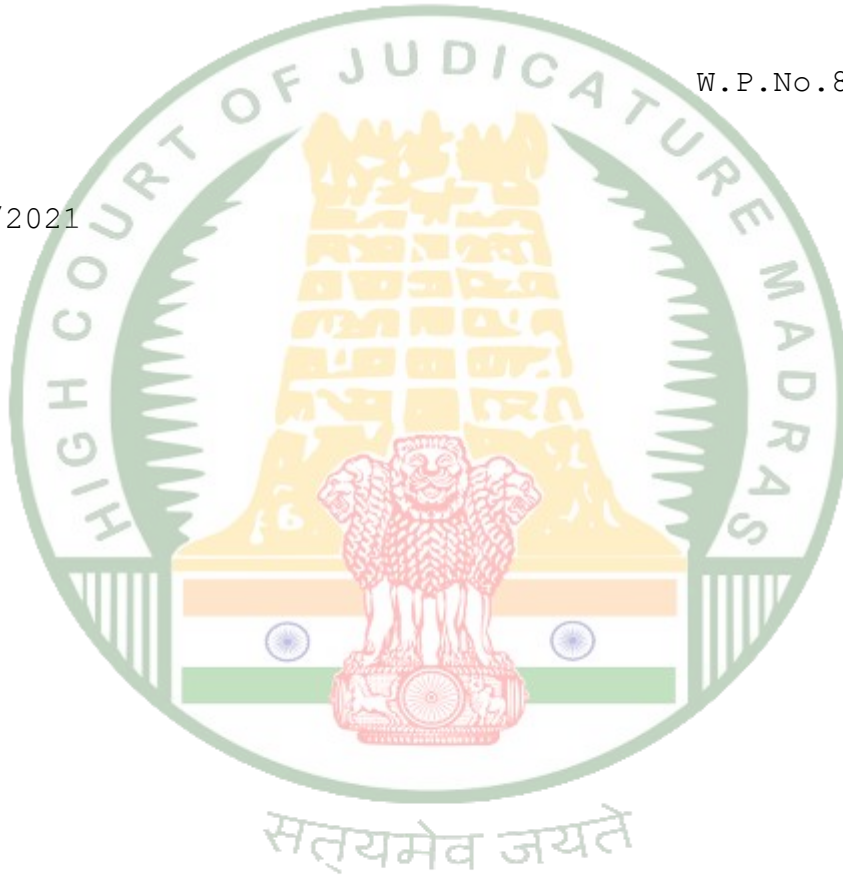
2.The Director of School Education,
Directorate of school Education,
College Road,
Chennai - 600 006.

3. The Director,
State Council of Educational Research and Training,
College Road,
Chennai - 600 006.

+1 cc to Mr.R. Marudhachalamurthy, Advocate Sr.20281
+1 cc to Government Pleader SR 20816

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LN(co)
SRG 13/07/2021



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