

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Writ Appeal No.2710 of 2019

S.Mani

S/o.Sabapathi

...Appellant/Petitioner

vs

1. The State of Tamil Nadu,
represented by its Secretary,
Department of School Education,
Fort St.George,
Chennai - 600009.
2. The Director of Elementary Education,
D.P.I. Complex,
College Road,
Chennai - 600006.
3. The District Elementary Officer,
The District Elementary Education Office,
Madhuranthagam,
Kancheepuram District.
4. The Block Education Officer,
Maduranthagam,
Kancheepuram District.

...Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent Act against the order passed in W.P.No.6922 of 2019 dated 11.03.2019.

PRAYER IN W.P.No.6922 of 2019: This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents to extend the benefits granted to Similarly Placed Persons by the G.O.(Ms) No. 234, School Education (G2) Department dated 10.09.2009 and to pay the arrears of pay based on the revised scale for the period from 21.07.1997 to 31.05.2010 and revise the pension arrear accordingly and pass such further or other orders as this Court may deem fit and proper.

For Appellant : Ms.Kanimozhi Sundar
For Respondents : Mr.C.Munusamy
Special Government Pleader (Edn.)
for RR 1 to 4

JUDGMENT

[Judgment of the Court was delivered by R.SUBBIAH, J]

This matter is heard through Video Conference.

2. This appeal has been filed against the order of this Court dated 11.03.2019 passed in W.P.No.6922 of 2019, wherein the prayer of appellant herein to direct the respondents to re-fix his pay by extending the benefits granted in G.O.Ms.No.234, School Education, dated 10.09.2009, was rejected.

3. The case of the appellant is that he was appointed as Secondary Grade Assistant Teacher. Subsequently, he was promoted as Headmaster of Elementary School at Sithandimandabam Village, Madhuranthagam Taluk on 21.07.1997 and retired as Elementary School Headmaster on 31.05.2010. Until 01.06.1988, the post of Headmaster of Elementary School was not having separate higher scale of pay. The scale of pay for the post of Headmaster of Elementary School and Secondary Grade Teacher were identical and inter-transferable. The Secondary Grade Teachers were transferred and posted as Headmaster of Elementary School and they were paid only pay allowance. While so, the 5th pay commission recommended separate scale of pay for the post of Headmaster of Elementary School with effect from 01.06.1988 and hence, from such date, the scale of pay to the post of Secondary Grade Teacher was fixed at Rs.1,200/- and Rs.1,400/- for the post of Headmaster of Elementary School. Due to the difference in the basic pay, the Elementary School Head Masters could not count their past services rendered as Secondary Grade Teachers for the purpose of getting Selection Grade or Special Grade. Therefore, several Original Applications were filed before the Tamil Nadu Administrative Tribunal and all the applications were allowed by a common order dated 19.03.2002 directing respondents to count the entire length of service and sanction selection grade and special grade in the cadre of Headmaster of Elementary School. The Writ Appeals filed against the said order were dismissed by this Court and hence, the order of the Tribunal has become final. Thereafter, the first respondent has issued G.O. (Ms) No.234, Education Department, dated 10.09.2009 conferring Selection Grade and Special Grade pay for Elementary School Headmaster, who were in service prior to 01.06.1988 either as Secondary Grade Teacher or as Head Master of Elementary School and their entire length of service was counted for the purpose of awarding Selection Grade and Special Grade and arrears were

also paid to them. The appellant was also granted Selection Grade and Special Grade vide proceedings of fourth respondent dated 03.04.2012, by conferring the scale of pay in the Grade of Selection Grade and Special Grade as Elementary School Head Master. However, the appellant was given arrears only with effect from 01.06.2010 and he was not given arrears with effect from 21.07.1997, the date on which the appellant was awarded Selection Grade even though he is entitled for arrears of pay and revised pension based on G.O.(Ms) No.234, Education Department, dated 10.09.2009. In this regard, appellant submitted several representations to respondents on various dates since the year 2013. The appellant finally submitted a detailed representation dated 24.12.2018 to all the respondents. Since no action was taken on the representations, appellant filed W.P.No.6922 of 2019 before this Court seeking a direction to respondents to re-fix his pay by extending the benefits granted in G.O.Ms.No.234, School Education, dated 10.09.2009 and to pay the arrears of revised scale for the period from 21.07.1997 to 31.05.2010 and to revise his pension accordingly. The learned Single Judge dismissed the petition on the ground of delay and laches following the judgment of the Supreme Court in the case of Ramachandra Shankar Deodhar and others vs. The State of Maharashtra and others [1974 (1) SCC 317]. Hence, this appeal.

4. Heard learned counsel for appellant and learned Special Government Pleader appearing for respondents.

5. In the case on hand, though the appellant was well aware of the benefits conferred by Government in favour of similarly placed persons like him, he has not chosen to approach this Court at the earliest point of time. The Government Order was passed in the year 2009. However, the appellant submitted the representation only in the year 2013 and the Writ Petition was filed in the year 2018. This Court also finds that the appellant has not assigned any justifiable reason for not having approached this Court at the earliest point of time. In such circumstance, the finding of the learned Single Judge that there is inordinate delay and laches on the part of appellant in filing the Writ Petition is justifiable. This Court does not find any infirmity or illegality in dismissing the Writ Petition on the ground of delay and laches.

Accordingly, the Writ Appeal is dismissed. No costs.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

gm

To

1. The Secretary,
Department of School Education,
Fort St.George,
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2. The Director of Elementary Education,
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+1cc to the Government Pleader, SR.No.4015

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KV(CO)
KKV/10/03/2021