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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2021

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.Nos.24297, 24299, 24300, 24303, 24306,
24308, 24310 and 24311 of 2021

N.K.Valli	...Petitioner in W.P.No.24297 of 2021
V.V.Osiraman S/o.V.M.Venkatesan	...Petitioner in W.P.No.24299 of 2021
H.Ibrahim S/o.S.A.Hameed	...Petitioner in W.P.No.24300 of 2021
R.V.Mani S/o.R.M.Venkatesan	...Petitioner in W.P.No.24303 of 2021
A.E.Vimala D/o.M.Balan	...Petitioner in W.P.No.24306 of 2021
K.V.Babu S/o.K.Viswanathan	...Petitioner in W.P.No.24308 of 2021
K.S.Vendam S/o.K.K.Shanmugam	...Petitioner in W.P.No.24310 of 2021
M.G.Kumar S/o.M.A.Gangadaran	...Petitioner in W.P.No.24311 of 2021

Vs

1. Government of Tamil Nadu,
Rep by Principal Secretary to Government,
School Education Department,
Secretariat, Chennai 600 009.
2. The Director of Elementary Education,
Chennai 600 006.
3. The Block Educational Officer,
Pallipattu, Tiruvallur District.
...Respondents in W.P.No.24297 of 2021



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1. Government of Tamil Nadu,
Rep by Principal Secretary to Government,
School Education Department,
Secretariat, Chennai 600 009.
2. The Director of Elementary Education,
Chennai 600 006.
3. The Block Educational Officer,
Pallipattu, Tiruvallur District.
...Respondents in W.P.No.24299 of 2021
1. Government of Tamil Nadu,
Rep by Principal Secretary to Government,
School Education Department,
Secretariat, Chennai 600 009.
2. The Director of Elementary Education,
Chennai 600 006.
3. The Block Educational Officer,
Pallipattu, Tiruvallur District.
...Respondents in W.P.No.24300 of 2021
1. Government of Tamil Nadu,
Rep by Principal Secretary to Government,
School Education Department,
Secretariat, Chennai 600 009.
2. The Director of Elementary Education,
Chennai 600 006.
3. The Block Educational Officer,
Pallipattu, Tiruvallur District.
...Respondents in W.P.No.24303 of 2021
1. Government of Tamil Nadu,
Rep by Principal Secretary to Government,
School Education Department,
Secretariat, Chennai 600 009.
2. The Director of Elementary Education,
Chennai 600 006.
3. The Block Educational Officer,
Pallipattu, Tiruvallur District.
...Respondents in W.P.No.24306 of 2021



1. Government of Tamil Nadu,
Rep by Principal Secretary to Government,
School Education Department,
Secretariat, Chennai 600 009.

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2. The Director of Elementary Education,
Chennai 600 006.
3. The Block Educational Officer,
Pallipattu,
Tiruvallur District.

...Respondents in W.P.No.24308 of 2021

1. Government of Tamil Nadu,
Rep by Principal Secretary to Government,
School Education Department,
Secretariat, Chennai 600 009.
2. The Director of Elementary Education,
Chennai 600 006.
3. The Block Educational Officer,
Pallipattu,
Tiruvallur District.

...Respondents in W.P.No.24310 of 2021

1. Government of Tamil Nadu,
Rep by Principal Secretary to Government,
School Education Department,
Secretariat, Chennai 600 009.
2. The Director of Elementary Education,
Chennai 600 006.
3. The Block Educational Officer,
Pallipattu,
Tiruvallur District.

...Respondents in W.P.No.24311 of 2021

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus calling for the records relating to Aa.Thi.Mu.No.38/A1/2021 dated 02.02.2021 on the file of the third respondent and to quash the same and to issue consequential directions to the respondents to grant the benefit of G.O.Ms.No.23, Finance (PC) Department, dated 12.01.2011.

Prayer in W.P.No.24299 of 2021: Calling for the records relating to Aa. Thi.Mu.No.39/A2/ 2021 dated 02.02.2021 on the file of the third respondent to quash the same and to issue consequential



directions to the respondents to grant the benefit of G.O.Ms. No.23 Finance (PC) Department dated 12.01.2011.

Prayer in W.P.No.24300 of 2021: Calling for the records relating to Aa. Thi.Mu.No.08/A1/ 2021 dated 02.02.2021 on the file of the third respondent to quash the same and to issue consequential directions to the respondents to grant the benefit of G.O.Ms. No.23 Finance (PC) Department dated 12.01.2011.

Prayer in W.P.No.24303 of 2021: Calling for the records relating to Aa. Thi.Mu.No.37/A1/2021 dated 02.02.2021 on the file of the third respondent to quash the same and to issue consequential directions to the respondents to grant the benefit of G.O.Ms. No.23 Finance (PC) Department dated 12.01.2011.

Prayer in W.P.No.24306 of 2021: Calling for the records relating to Aa. Thi. Mu.No.35/A1/2021 dated 02.02.2021 on the file of the third respondent to quash the same and to issue consequential directions to the respondents to grant the benefit of G.O.Ms. No.23 Finance (PC) Department dated 12.01.2011.

Prayer in W.P.No.24308 of 2021: Calling for the records relating to Aa. Thi.Mu.No.453/E1/2021 dated 29.06.2021 on the file of the third respondent to quash the same and to issue consequential directions to the respondents to grant the benefit of G.O.Ms. No.23 Finance (PC) Department dated 12.01.2011.

Prayer in W.P.No.24310 of 2021: Calling for the records relating to Aa. Thi.Mu.No.36/A1/ 2021 dated 02.02.2021 on the file of the third respondent to quash the same and to issue consequential directions to the respondents to grant the benefit of G.O.Ms. No.23 Finance (PC) Department dated 12.01.2011.

Prayer in W.P.No.24311 of 2021: Calling for the records relating to Aa.Thi.Mu.No.40/A2/2021 dated 02.02.2021 on the file of the third respondent to quash the same and to issue consequential directions to the respondents to grant the benefit of G.O.Ms. No.23 Finance (PC) Department dated 12.01.2011.

For Petitioner : Mr.M.Ravi

For Respondents: Mr.L.S.M.Hasan Fizal,
Addl.Government Pleader for R1 & R3.

Mr.Abishek Moorthy, GA for R2.



C O M M O N O R D E R

These writ petitions have been filed to issue a writ of Certiorarified Mandamus calling for the records relating to Aa.Thi.Mu.No.38/A1/2021, dated 02.02.2021, Aa.Thi.Mu.No.39/A2/2021, dated 02.02.2021, Aa.Thi.Mu.No.08/A1/2021 dated 02.02.2021, Aa.Thi.Mu.No.37/A1/2021 dated 02.02.2021, Aa.Thi.Mu.No.35/A1/2021, dated 02.02.2021, Aa.Thi.Mu.No.453/E1/2021 dated 29.06.2021, Aa.Thi.Mu.No.36/A1/2021, dated 02.02.2021, Aa.Thi.Mu.No.40/A2/2021 dated 02.02.2021, on the file of the third respondent and to quash the same and to issue consequential directions to the respondents to grant the benefit of G.O.Ms.No.23, Finance (PC) Department, dated 12.01.2011.

2. The case of the petitioners is as follows:

(i) The petitioners were appointed as Secondary Grade Teachers in the pay scale of Rs.4500-125-7000 and subsequently, promoted as Elementary School Headmasters in the pay scale of Rs.5300-150-8300. The Government issued G.O.Ms.No.234, Finance Pay Cell Department dated 01.06.2009, accepting the recommendation of the 6th Pay Commission and revised the pay scales of Government Employees and Teachers. As there was anomaly in the pay fixation of the Secondary Grade Teachers, One Man Commission was constituted and subsequently, the Commission submitted its report to the Government. As per the report, Special Allowance was granted to the categories employed in the Elementary Education and School Education Department by issuing G.O.Ms.No.270, Finance Pay Cell Department dated 26.08.2010. According to the report of the One Man Commission, Special Allowance had been granted to the Secondary Grade Teachers and other Equivalent teaching posts.

(ii) However, not satisfied with the grant of Special Allowance, representations were submitted by the Association representing Teachers. In consideration of the representations, the Government issued further orders in G.O.Ms.No.23, Finance Pay Cell Department dated 12.01.2011, granting Personal Pay of Rs.750/- by enhancing the Special Allowance from Rs.500/- per month by refixing the scale of pay with effect from 01.01.2006 notionally with monetary benefits from 01.01.2011. These petitioners who are also to be covered under the said Government Order, submitted their representations for grant of Personal Pay in terms of G.O.Ms.No.23, dated 12.01.2011. However, the representations were not considered and originally rejected on the ground that the Government Order would apply only to those Secondary Grade Teachers who were appointed from 01.01.2011 onwards and not to those who were granted promotion from the post of Secondary Grade Teachers.



3. When these matters are taken up for hearing, the learned counsel for the petitioners would submit that the issue is directly covered by the decision of this Court passed in W.P(MD) No.16801 of 2015 dated 11.02.2020. The learned counsel would refer to the relevant paragraphs of the order passed by the learned Judge of this Court as contained in paragraph Nos. 4 to 7, which are extracted hereunder:

“ 4.Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents.

5.Perusal of records shows that G.O.Ms.No.23, Finance (Pay Cell) Department was issued only on 12.01.2011 granting the benefit by giving retrospective effect from 01.01.2006 and therefore, the reason for rejection that as on the date of issuing the said G.O., the petitioner was not a Secondary Grade Teacher, cannot be acceptable as notional payment has been given from 01.01.2006 itself. If a teacher continued in the same post, she is entitled to get the benefit, but if a teacher was given promotion, she is not entitled to get the benefits which is totally contrary to the basic principle. If that is accepted, the teacher continued in the same post will get more pay than the promoted teacher. The juniors working in the same post without any promotion were getting higher pay only because of the reason that at the time of issuance of the Government Order, they were holding the post of Secondary Grade Teacher. Therefore, the issue was raised before this Court and it was decided by this Court in W.P(MD)No.19240 of 2014 dated 02.01.2018 allowing the benefits of personal pay of Rs.750/- till the date of promotion. After promotion, the personal pay will be merged with the basic pay and therefore, the petitioner is not entitled to get personal pay separately after promotion. Hence, the issue is covered by the decision of this Court as stated supra. The petitioner also stands in the same footing and he is entitled for the benefit of personal pay of Rs.750/- notionally with effect from 01.01.2006 as per G.O.Ms.No.23, Finance (Pay Cell) Department dated 12.01.2011 till the date of promotion that is 02.06.2009 and thereafter the same will be merged with the basic pay while fixing the pay in the promotional post. The relevant portion of the order in W.P(MD)No.19240 of 2014 dated 02.01.2018 is extracted below:-



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"4. I went through the contents of the counter filed by the third respondent. Following the implementation of the sixth pay commission's recommendations, there arose certain pay anomalies. The Government of Tamil Nadu constituted a One Man Commission vide G.O.Ms.No.444, Finance (PC) Department dated 09.09.2009. The Secondary Grade Teachers had been agitating that they had been dealt with unfairly. Therefore, the said One Man Commission made a recommendation for grant of Special Allowance of Rs.500/- per month to them. The said recommendation was accepted by the Government and the Government issued G.O.Ms.No.270, Finance (Pay Cell) Department dated 26.08.2010. Still, the Secondary Grade Teachers were not satisfied. Therefore, this amount was enhanced to Rs.750/-.

5.It was made clear that both the Government Orders shall take notional effect from 01.01.2006 and monetary effect from 01.08.2010 and 01.01.2011 respectively. It is seen that the writ petitioner herein was promoted from the post of Secondary Grade Teacher to the post of B.T.Assistant on 02.06.2010 itself. In other words, he ceased to be a Secondary Grade Teacher from the said date. He was working as a B.T Assistant when G.O.Ms.No.270, dated 26.08.2010 was issued.

6.In the counter affidavit, it has been conceded that the writ petitioner was given Special Allowance of Rs.500/- on notional basis till the date of his promotion as B.T.Assistant. In other words, the writ petitioner was given the benefit of G.O.Ms.No.270, dated 26.08.2010. In the counter affidavit, a stand is taken to the effect that the writ petitioner is not entitled to claim benefit in terms of G.O.Ms.No.23, dated 12.01.2011, since she was not a Secondary Grade Teacher by then. This is clearly self contradictory. G.O.Ms.Nos.270 dated 26.08.2010 and G.O.Ms.No.23, dated 12.01.2011 cannot be separated from one another.



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paragraph Nos. 4 to 8 are extracted hereunder:

"4. The ground canvassed before us is that G.O.Ms.No.270, Finance (Pay Cell) Department, dated 26.08.2010, provides that a Secondary Grade Teacher is entitled to special allowance of Rs.500/- per month only from 01.08.2010 and on the said date, the respondent/writ petitioner was not a Secondary Grade Teacher. It is further contended that G.O.Ms.No.23, Finance (Pay Cell) Department, dated 12.01.2011 provides for enhancement of special allowance to Secondary Grade Teachers from Rs.500/- to Rs.750/- as personal pay, that too, only from 01.01.2011. The date on which, the petitioner was not a Secondary Grade Teacher, as he was already promoted as BT Assistant on 02.06.2010. This submission was considered by the learned Single Bench and found that G.O.Ms.No.270, Finance (Pay Cell) Department, dated 26.08.2010 was given notional effect from 01.01.2006 and monetary benefits was extended to the Secondary Grade Teacher with effect from 01.08.2010. It is not in dispute that as on the said date, viz., 01.08.2010, the respondent/writ petitioner was not working as Secondary Grade Teacher, but was promoted as BT Assistant on 02.06.2010.

5. In such circumstances, merely because, an anterior date was fixed for grant of monetary benefits in G.O.Ms.No.270, Finance (Pay Cell) Department, dated 26.08.2010 will not be a ground to deny notional benefit to the respondent/writ petitioner as provided in G.O.Ms.No.270, Finance (Pay Cell) Department, dated 26.08.2010. If such is the conclusion, then equally the enhanced notional benefit in terms of G.O.Ms.No.23, Finance (Pay Cell) Department, dated 12.01.2011 will also notionally accrue to the respondent/writ petitioner.

6. Thus, the conclusion arrived at by the learned Single Judge is perfectly in order and the learned Single Bench also rightly denied the monetary benefits to the respondent/writ petitioner though there was such a prayer in the writ petition.

7. Hence, for the above reasons, we find no grounds to interfere with the order passed by the learned Single Judge.

8. Accordingly, this Writ Appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed. "



5. Mr. L.S.M. Hasan Fizal, learned Additional Government Pleader appearing for R1 & R3 and Mr. Abishek Moorthy, learned Government Advocate appearing for R2, have no quarrel with the submission made on behalf of the petitioners that the issue is directly covered by the above decisions of the learned Single Judge as well as the learned Division Bench of this Court. As a matter of fact, the rejection of the petitioners' claim is on the ground that their names were not found place in the earlier order of this Court. In effect, it is an unmistakable admission of the claim of the petitioners herein.

6. In view of the above admitted position, these writ petitions are allowed and the rejection orders in Aa.Thi.Mu.No.38/A1/2021, dated 02.02.2021, Aa.Thi.Mu.No.39/A2/2021, dated 02.02.2021, Aa.Thi.Mu.No.08/A1/2021 dated 02.02.2021, Aa.Thi.Mu.No.37/A1/2021 dated 02.02.2021, Aa.Thi.Mu.No.35/A1/2021, dated 02.02.2021, Aa.Thi.Mu.No.453/E1/2021 dated 29.06.2021, Aa.Thi.Mu.No.36/A1/2021, dated 02.02.2021, Aa.Thi.Mu.No.40/A2/2021 dated 02.02.2021, are hereby set aside. The respondents are directed to grant the benefit of Personal Pay as contemplated in G.O.Ms.No.23, Finance Pay Cell Department dated 12.01.2011, from the date it became payable to the petitioners. The respondents are hereby directed to pass appropriate orders in this regard within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

gsk

To

1. The Principal Secretary to Government,
Government of Tamil Nadu,
School Education Department,
Secretariat, Chennai 600 009.
2. The Director of Elementary Education,
Chennai 600 006.
3. The Block Educational Officer,
Pallipattu,
Tiruvallur District.



4. The Chief Educational Officer,
Tiruvallur District,
Tiruvallur.

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+8cc to Mr.M.Ravi, Advocate, S.R.No.67994, 67996, 67997, 67998,
67999, 68000, 68001, 68002

+1cc to the Government Pleader, S.R.No.68673

W.P.Nos.24297, 24299, 24300, 24303, 24306,
24308, 24310 and 24311 of 2021

AD(CO)
RGA(31/01/2022)