



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.8446 of 2021

WEB COPY

M.Manoharan

... Petitioner

-Vs-

1.The Secretary to Government,
Government of Tamil Nadu,
School Education Department,
Fort St. George, Chennai-600 009.

2.The Secretary to Government,
Government of Tamil Nadu,
Finance (Pay Cell) Department,
Fort St. George, Chennai-600 009.

3.The Principal Accountant General
(Accounts & Entitlements),
Office of the Principal Accountant General,
(Accounts & Entitlements),
No.361, Anna Salai, Chennai-600 018.

4.The Director of School Education,
College Road, Chennai-6.

5.The District Educational Officer,
Periyakulam, Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents herein to calculate, revise and disburse the pension of petitioner in the pay scale of Elementary School Head Master from 01.03.2017 for his employment as Selection Grade Physical Education Teacher during 01.06.1988 and 31.12.1995, as per judgment of Hon'ble Full Bench of this Court, dated 09.12.2016, made in Review Application No.227 of 2015 etc., batch which was implemented in G.O(MS)No.90, School Education Department, dated 09.05.2018.

For Petitioner	: Mr.K.Appadurai
For R1,R2,R4 & R5	: Mr.N.Shanmugaselvam
	Additional Government Pleader
For R3	: Mrs.Mahalakshmi



ORDER

This Writ Petition is filed to direct the respondents herein to calculate, revise and disburse the pension of petitioner in the pay scale of Elementary School Head Master from 01.03.2017 for his employment as Selection Grade Physical Education Teacher during 01.06.1988 and 31.12.1995 as per judgment of Hon'ble Full Bench of this Court, dated 09.12.2016, made in Review Application No.227 of 2015, which was implemented in G.O.(Ms)No.90, School Education Department, dated 09.05.2018.

2. Mr.N.Shanmugaselvam, learned Additional Government Pleader takes notice on behalf of the respondents 1,2,4 & 5 and Mrs.Mahalakshmi, learned counsel takes notice on behalf of the third respondent. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. The petitioner was appointed as Physical Education Teacher on 20.08.1976 in Hindu Middle School, Jakkampatti, Aundipatti. Thereafter, the said school was upgraded as Higher Secondary School. The petitioner was allowed to retire in the same post by volunrary retirement, without any promotion on 31.03.2020. He had put in 24 years of continuous service and he was conferred with Selection Grade on 20.08.1986 and Special Grade on 20.08.1996. The second respondent issued G.O.Ms.No.304, Finance (PC) Department, dated 28.03.1990, whereby Selection/Special Grades were re-introduced with improved scale of pay with retrospective effect from 01.06.1988. Thereafter, the first respondent issued another G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993, in view of the fact that all Secondary Grade Teachers working in the High Schools, have no promotional avenue and as a measure of uniformity in respect of all Secondary Grade Teachers, the Government directed that all the Teachers be made eligible for Selection/Special Grades with uniform revision of pay scale accordingly. The petitioner filed a writ petition in W.P(MD)No.4823 of 2011 before this Court for revision of pay on his Selection and Special Grade as arrears of pay as per G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993, with effect from 1.6.1988 together with interest. This Court by order dated 26.04.2011, directed the petitioner to submit a detailed representation to the respondents 4 & 5 and directed them to consider the same. Subsequently, the fifth respondent refused to grant revision of pay. Challenging the said order, the petitioner has filed W.P(MD)No.5633 of 2013. This Court by order dated 01.08.2013, set aside the order of the fifth respondent. Subsequently, the Government issued G.O.Ms.No.181, School Education (SE 31) Department, dated 06.09.2013, granting revision of pay to the petitioner and similarly placed persons in the pay scale of Elementary School Head Master, who had retired as Physical Education Teacher/Special Teachers after



attaining Selection and Special Grade during the period from 1.6.1988 to 31.12.1995 from Government High School and Higher Secondary School/Government Aided Schools and filed writ petitions and obtained orders from the Court. Subsequently, there were further proceedings in review applications which attained finality in the judgment of the Hon'ble Full Bench of this Court, dated 09.12.2016 in Rev.Application No.227 of 2015 etc., batch SR No.1946 of 2016. Following the above said Order of the Full Bench of this Court and in order to implement the same, the Government issued G.O (Ms)No.90, School Education, Department, dated 09.05.2018. Though the respondents having started to disburse the revised pension to many other similarly placed persons, the said benefit of the above orders is not extended to the petitioner. Hence, the petitioner has come out with the present writ petition.

4. The learned counsel appearing for the petitioner submitted that in the light of the above decision rendered by the Full Bench of this Court, dated 09.12.2016, in Revision Petition No.227/2015 etc., batch and observations made by this Court, the petitioner is entitled to the relief sought for now in the present writ petition and prayed for allowing the writ petition.

5. The learned Additional Government Pleader submitted that the representation of the petitioner will be considered and respondents will pass orders on the representation of the petitioner on merits.

5. Considering the facts and circumstances of the case and also considering the submission of the learned counsel for the petitioner and Additional Government Pleader, without deciding the issue on merits, it is suffice to direct the respondents to consider the petitioner's claim in the light of the decision of the Full Bench of this Court, in Revision Petition No.227/2015 etc., batch, dated 09.12.2016, and pass orders on merits and in accordance with law, as expeditiously as possible.

6. With the above direction, the writ petition is disposed of. No costs.

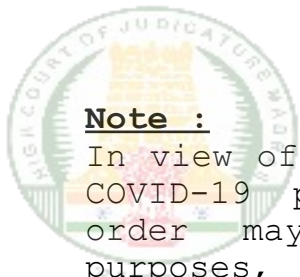
Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

am

To

- 1.The Secretary to Government,
Government of Tamil Nadu,
School Education Department,
Fort St. George, Chennai-600 009.
- 2.The Secretary to Government,
Government of Tamil Nadu,
Finance (Pay Cell) Department,
Fort St. George, Chennai-600 009.
- 3.The Principal Accountant General
(Accounts & Entitlements),
Office of the Principal Accountant General,
(Accounts & Entitlements),
No.361, Anna Salai, Chennai-600 018.
- 4.The Director of School Education,
College Road, Chennai-6.
- 5.The District Educational Officer,
Periyakulam, Theni District.

+1 CC to M/s.K.APPADURAI, Advocate (SR-18123[F] dated 30/04/2021)

W.P. (MD) No.8446 of 2021

28.04.2021

GS (19.05.2021) 4P 7C