



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P(MD) No.17078 of 2021

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K.Aravan

... Petitioner

Vs.

1.The Secretary,
Government of Tamil Nadu,
School Education Department,
Secretariat, Chennai.

2.The Chief Educational Officer,
Trichy District,
Trichy.

3.The District Educational Officer,
Lalgudi,
Trichy District.

4.The Block Educational Officer,
Mannachanallur,
Trichy District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 4th respondent in his proceedings in Na.Ka.No.307/A2/2021 dated 07.05.2021 and quash the same as illegal and consequently direct the 4th respondent to disburse the revised pay scale to the petitioner, pursuant to G.O.Ms.No.90 dated 09.05.2018.

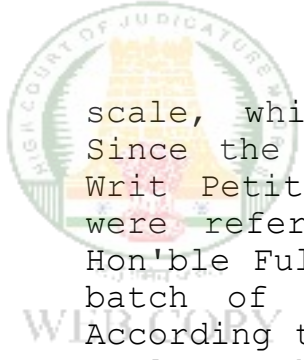
For Petitioner : Mr.T.Lenin Kumar
For Respondents : Mr.S.Shanmugavel,
Standing Counsel for State.

O R D E R

This Writ Petition has been filed challenging the impugned order dated 07.05.2021 passed by the fourth respondent and for a consequential direction to the fourth respondent to disburse the revised pay scale to the petitioner, pursuant to G.O.Ms.No.90 dated 09.05.2018.

2. According to the petitioner, he was working as a Physical Education Teacher in Middle School and as per G.O.Ms.No.216, Finance (Pay Cell) dated 22.03.1993, he was eligible to be paid Special pay

<https://hcservices.ecourts.gov.in/hcservices/>



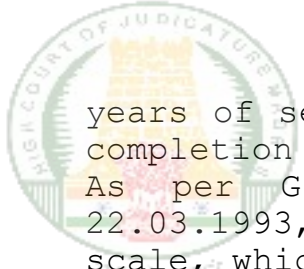
scale, which is payable to the post of High School Headmaster. Since the petitioner was not given special pay scale, he filed a Writ Petition in W.P.No.2292 of 2014. Subsequently, the matters were referred to the Hon'ble Full Bench of this Court and the Hon'ble Full Bench has passed a comprehensive order on 09.12.2016 in batch of writ petitions, writ appeals and review applications. According to the petitioner, the respondent has paid the revised pay scale to the similarly placed persons. However, the respondents did not come forward to pay the revised pay scale to the petitioner's husband. Hence, the petitioner's husband made a representation on 20.06.2020, seeking to pay the revised pay scale, pursuant to G.O.Ms.No.90, School Education Department, dated 09.05.2018. Since the same was not considered the petitioner has filed a writ petition in W.P.(MD)No.3553 of 2021, seeking for a direction to the fourth respondent to disburse the revised pay scale pursuant to G.O.Ms.No.90, dated 09.05.2018 by considering the petitioner's representation dated 20.06.2020. This Court by order dated 24.02.2021, directed the fourth respondent to consider the petitioner's representation dated 20.06.2020, on its own merits and in accordance with law. However, the fourth respondent by the impugned order, rejected the claim of the petitioner by citing a reason that the Hon'ble Full Bench, by its order dated 09.12.2016 clearly stated that the Teachers who secured selection grade and special grade in between the period 01.06.1988 to 31.12.1995 alone are eligible to be considered for revised pay scale on par with Headmaster of Primary School and since the petitioner was working as a special teacher in middle school, he will not be entitled to get the benefit. Challenging the said order, the petitioner has filed this Writ Petition.

3. The learned counsel appearing for the petitioner would submit that though the petitioner is a party to the judgment of the Hon'ble Full Bench, the relief granted in the said judgment has not been given to the petitioner. Hence, the petitioner made an application to the respondents. However, the fourth respondent has rejected the said application, which is contrary to the order passed by the Hon'ble Full Bench. Hence, the impugned order is liable to be set aside.

4. The learned Standing Counsel for State appearing for the respondents submitted that the petitioner is a party to the judgment of the Hon'ble Full Bench of this Court and the Hon'ble Full Bench has granted the relief to the petitioner and hence, he cannot seek the same relief by filing a fresh Writ Petition. Therefore, this Writ Petition is not maintainable.

5. I have anxiously considered the rival submissions and also perused the materials on record.

6. On a perusal of the records, it is seen that the petitioner was working as a Physical Education Teacher. On completion of 10



years of service, he was given selection grade on 03.11.1991 and on completion of 20 years, he was given special grade on 02.11.2001. As per G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993, the petitioner was fully eligible to pay special pay scale, which is payable to the post of High School Headmaster. Since the same was not given to the petitioner, he has filed a writ petition in W.P.No.2292 of 2014. Subsequently, the matters were referred to the Hon'ble Full Bench of this Court. The Hon'ble Full Bench of this Court by order dated 09.12.2016 in Review Aplns. No.227 of 2015 etc., batch [**Government of Tamil Nadu, represented by the Secretary, School Education Department vs. G.Eswaran and others** reported in **2017(1) CWC 561**] has held as follows:

"(i) The Government is directed to implement the G.O.Ms.No.216, dated 22.03.1993 for the period between 01.06.1998 and 31.12.1995, on and from 01.03.2017 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 Headmaster;

(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 22.03.1993 payable on and from 01.03.2017;

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

It is an admitted fact that the petitioner has already approached this Court and order has been passed and the same has become final. In such circumstances, the present Writ Petition has been filed before this Court for the same relief. Such relief cannot be granted and for the very same prayer, the second writ petition is not maintainable either in law or on facts. Secondly, as per the judgment of the Hon'ble Full Bench of this Court, no writ petition



can be entertained on and from 09.12.2016. On the aforesaid grounds, there is no force on the contention of the learned counsel appearing for the petitioner to entertain this Writ Petition. Therefore, this Writ Petition is not maintainable and the same is liable to be dismissed.

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7. Accordingly, this Writ Petition is dismissed. It is open to the petitioner to work out his remedy, if it is permissible under law. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Vsm

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.

To

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Government of Tamil Nadu,
School Education Department,
Secretariat, Chennai.
- 2.The Chief Educational Officer,
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Trichy.
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Trichy District.

+1 CC to M/s.SPL.GP (SR-29869[F] dated 22/09/2021)

W.P (MD) No.17078 of 2021
21.09.2021

RD(6.10.2021) 4P 6C