



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2021

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.(MD)No.8554 of 2018

N.Muthaiah

...Petitioner

/Vs./

1. State of Tamil Nadu,
Represented by its Secretary to the Government,
School Education Department,
Fort St.George,
Chennai-9.

2. The Director of Elementary Education,
Chennai.

3. The District Educational Officer,
Sivagangai District.

4. The Assistant Educational Officer,
Kannangudi Union, Sivagangai District.

5. The Accountant General (A&E),
Chennai.

(R5 is Suo motu impleaded vide court order
dated 15.11.2021 in WP(MD).8554/2018).

...Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents to release the monetary benefits to the petitioner as per G.O.Ms.No.234, School Education Department dated 10.09.2009 by implementing the order made in W.P.No.17928 of 2010 dated 22.07.2011.

For Petitioner	: Mr.M.R.Vijayakumar
For Respondents	: Mr.V.Om Prakash Government Advocate

ORDER

Heard Mr.Vijayakumar, learned counsel for the petitioner and Mr.V.Om Prakash, learned Government Advocate for the State, Director of Elementary Education, District Educational Officer, Assistant Educational Officer Director, R1 to R4 respectively.

2.The petitioner was appointed with the State Educational Department as Secondary Grade Teacher on 01.03.1973. He received the benefit of Selection Grade and Special Grade pay and was promoted as Elementary School Headmaster on 07.07.1993.



3. Seeking benefit in regard to appointment as Elementary School Headmaster by way of Special Grade of Pay, Original applications came to be filed by a batch of similarly placed individuals before the Tamil Nadu Administrative Tribunal (Tribunal), that had accepted the claims of those employees.

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4. The order of the Tribunal was also confirmed by the High Court and G.O.Ms.No.243, School Education (G2) Department, dated 10.09.2009 came to be issued directing the State to count the entirety of the length of service of the employees concerned and grant Special Grade of pay in the cadre of Elementary School Headmaster.

5. Since no action was taken in line with G.O.Ms.No.234, School Education (G2) Department, dated 10.09.2009, the petitioner filed a writ petition in W.P.(MD)No.17928 of 2010, which came to be heard with a batch of writ petitions and allowed on 22.07.2011 by way of a short order, following the ratio of an order passed in W.A.(MD)No.815 of 2010.

6. The entirety of the order is extracted below:

"All these writ petitions relate to G.O.Ms.No.234, School Education Department, dated 10.09.2009 as to the certain entitlement of the benefits to the teaching staff pursuant to the orders passed in O.A.No.177/1997 dated 12 July 2002 by the State Administrative Tribunal as confirmed by the order dated 21 February 2008 in W.P.No.29644 and 29645/2003.

2. Similar question came up before this Court in a batch of writ appeals in W.A.Nos.815/2010, etc. batch, challenging the order of the learned single Judge dismissing similar writ petitions solely on the ground of delay and laches. This Court, by judgment dated 07.07.2011, after hearing on either side, allowed the writ appeals in the following terms:-

"24. Accordingly, we allow the writ appeals by setting aside the order passed by the learned single Judge in the respective appeals.

25. The first respondent is directed to extend the benefits of the order in G.O.Ms.No.234 dated 10 September 2009 to the appellants. Such exercise shall be completed within a reasonable period and in any case within three months from the date of receipt of a copy of this Judgment.



26. In the upshot, we allowed the writ appeals. No costs."

3. There is no dispute that all these writ petitions relate to the same issue. As the writ petitions are covered in favour of the petitioners by our above judgment in the writ appeals, all these writ petitions are allowed in terms of the directions given in the writ appeals referred to above. No costs."

7. In light of the aforesaid, the petitioner's prayer which is for a mandamus directing the respondents to grant monetary benefits due to him by implementation of order dated 22.07.2011, is liable to be granted straightaway, and I do so.

8. In the counter filed by the respondents, they refer to an order passed by the Full Bench of the Principal Seat of this Court in the case of *Government of Tamil Nadu and others Vs. G.Eswaran and others* dated 09.12.2016. A restriction was placed by the Bench, by fixing the cut-off date as 01.03.2017 and stipulating that writ petitions filed after that date were not liable to be entertained.

9. The present petitioner has filed W.P.No.17928 in the year 2010 and the same has come to be allowed in the year 2011 itself. Thus, the argument of the respondents, is rejected as reliance upon the decision of the Full Bench does not advance its case.

10. A direction is issued to R3 and R4 to sanction the amount payable to the petitioner forthwith and forward such proposal to the Accountant General (A&E), Chennai. Since the latter is not a party in this writ petition, I implead him *suo motu* and issue a direction to the Accountant General (A&E), Chennai, to pay over the amount computed, within a period of six weeks from date of uploading of this order upon the official website of this Court. Issue a copy of this order to Accountant General (A&E), Chennai, and panel counsel for necessary action. This Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

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.

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To

1. The Secretary to the Government,
School Education Department,
Fort St.George,
Chennai-9.
2. The Director of Elementary Education,
Chennai.
3. The District Educational Officer,
Sivagangai District.
4. The Assistant Educational Officer,
Kannangudi Union,
Sivagangai District.
5. The Accountant General (A&E),
Chennai.

+1 CC to M/s.V. PANNER SELVAM, Advocate (SR-34634[F] dated 16/11/2021)

+1 CC to M/s.SPL GP (SR-34569[F] dated 16/11/2021)

+1 CC to Mr.R.Saravanakumar, Counsel for Accountant General (A&E),
Chennai.

Order made in
W.P. (MD) No.8554 of 2018

Dated: 15.11.2021

USK (05.01.2022) 4P 9C