



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD) .No.2051 of 2014

R.Subbulakshmi

... Petitioner

Vs.

1.The Assistant Account Officer,
Office of the Accountant General
(A&E), Tamil Nadu,
Chennai-600 018.

2.The Assistant Elementary Education Officer,
Vilathikulam-628 907,
Tuticorin District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the 1st respondent in his proceedings Per.33/II/13300589/FP/09-10 dated 05.04.2010 and quash the same as illegal and consequently, direct the 1st respondent to revise the pension as well as the family pension and pay them along with arrears within the period that may be stipulated by this Court.

For Petitioner	: Mr.Jerin Mathew
For R1	: Mr.P.Gunasekaran
For R2	: Mr.M.Lingadurai
	Government Advocate

ORDER

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the first respondent in 33/II/13300589/FP/09-10 dated 05.04.2010 and to direct the first respondent to revise the pension as well as the family pension and to pay the arrears within the period stipulated by this Court.

2.By the impugned order, the request of the petitioner to revise the pension and family pension, was rejected. The petitioner herein is the wife of late K.Ramasubbu, who retired from service on 30.04.1989 as secondary grade teacher. The petitioner's husband was appointed initially as Higher Grade Teacher in Panchayat Union Elementary School at Kamalapuram on 01.03.1957. It is stated that the petitioner was awarded Selection Grade in the year 1971 and also awarded Special Grade in the year 1981. The petitioner was promoted as Secondary Grade Teacher by S.C.E.R.T on 01.9.1982 and attained



the age of superannuation on 30.04.1989. It is not in dispute that the post of Secondary Grade Assistant is a higher post carrying higher responsibilities than that of Higher Grade Teacher. The Government issued G.O.Ms.No.210 Personnel and Administrative Reforms (Per S) Department, dated 11.03.1987, which reads as follows:

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"The One Man Committee has now recommended as follows:-

"Services in the Selection Grade of the lower post may also be counted for the Selection Grade in the promoted post provided that the Selection Grade scale of the lower post is identical to the ordinary grade of the higher post and that this concession may be allowed only at the first, promotion level. This will mainly result in some pensionary benefits to these categories.

In the case of posts with different grades, persons with 10 years or more of service may be advanced to Grade I and those with 20 years or more may be advanced to Selection Grade of Grade I."

2.The Government after careful examination accept the recommendation of the One man Committee and direct that the service in the Selection Grade of the lower post shall be counted for the Selection Grade in the promoted post provided that the Selection Grade scale of the lower post is identical to the ordinary grade of the higher post, and that the concession be allowed only at the first promotion level. Government also direct that in the case of posts with different grades one who has put in 10 years or more of service in the lower post(e.g.Grade II) shall be advanced to the next higher post (ie.Grade I) under the scheme of Flexible Complementing and one with a service of 20 years or more be advanced to Selection Grade of the higher post (ie GradeI) wherever it has already been provided.

3.These orders shall take notional effect from 1st October 1984 for the purpose of fixation of pay with monetary benefit from 1st April 1986."

3.However, in the written instruction, the Senior Accounts Officer/Legal Cell has stated that the petitioner is eligible for counting the service in the Higher Grade(Special Grade) Post only with effect from 01.10.1984 for the award of Selection Grade in the Secondary Grade(Ordinary Grade) post and would be entitled to Selection Grade in the Secondary Grade post only after completion of 10 years, ie., on 01.10.1994. However, since he had retired on 30.04.1989 itself, ie., before the completion of 10 years, he is not entitled to the award of Selection Grade in the Secondary Grade post before his retirement and hence, is not eligible for any revision of pensionary benefits.



4.The applicable ordinary selection and special grade scales of pay for the posts of Higher Grade Teacher and Secondary Grade Assistant from 01.01.1978 (III Pay Commission) to 01.10.1984(IV Pay Commission) can be seen from the following tables.

	III Pay Commission	IV Pay Commission
Higher Grade Teacher	w.e.f.1/1/78	w.e.f.1/10/1984
Ordinary Grade	280-5-320-10-450	805-10-555-15-615-20-785-25-845
Selection Grade	310-10-470-15-500	555-15-615-20-795-25-970
Special Grade	325-10-455-15-550	610-20-730-25-955-30-1075
Secondary Grade Teacher		
Ordinary Grade	350-10-420-15-600	610-20-730-25-855-30-1075
Selection Grade	400-15-420-20-550-25-700	705-20-745-25-845-35-1230
Special Grade	450-20-590-25-740-30-800	780-35-1025-40-1385

5.It is not in dispute that the post of Secondary Grade Teacher is a higher post carrying higher responsibilities than that of high grade teacher. As could be seen from the above table, the post of Secondary Grade Teacher in the ordinary grade carries a higher scale of pay than the pay scale of Higher Grade Teacher in the special grade upto 30.09.1984. However, with effect from 01.10.1984, the scales of pay of Higher Grade Teacher(Special Grade) and the pay scale of Secondary Grade Teacher(Ordinary Grade) became identical. Since G.O.Ms.No.210 dated 11.03.1987 allows the counting of service rendered in the Selection/Special Grade of the lower post for the award of Selection Grade in the Higher Post only when the scales of pay of both posts are identical, it is contended by the respondent that the petitioner who was receiving higher pay in the ordinary grade in the post of Secondary Grade Teacher compared to the pay that was applicable to the post of higher grade teacher in special grade is not entitled to award of Selection Grade in the Secondary Grade. Since the petitioner is entitled to count his service in the higher grade(Special Grade) post only with effect from 01.10.1984, it is argued by the respondents' counsel that the petitioner's husband, who retired on 30.04.1989 even before completion of 10 years cannot be given any monetary benefits. Therefore, it is the case of the respondent that the petitioner's husband is not entitled to the award of selection grade in the secondary grade post before his retirement and that he is not eligible for any revision of pensionary benefits. Though the position is not clarified with reference to the recommendations of



One Man Committee, before the issuance of G.O.Ms.No.210, this Court is unable to entertain the writ petition at this length of time, having regard to the admitted facts. The petitioner's husband was promoted as secondary grade teacher on 01.09.1982 and attained the age of superannuation on 30.04.1989, based on his last drawn salary, the pension benefits of the petitioner's husband was fixed and paid till he died in the year 1989. G.O.Ms.No.210 dated 11.03.1987 was issued during the life time of the petitioner's husband. The petitioner's husband though did not make a claim on the basis of G.O.Ms.No.210 dated 11.03.1987, the petitioner's wife has come forward with the representation dated 29.09.2010 nearly 11 years after the death of the petitioner's husband. The petitioner's husband have not made a claim even after receiving pension for about 11 years.

6.From the representation of the petitioner, it is seen that no previous representation or claim had been put forth either by the petitioner or by the petitioner's husband. This Court, having regard to the settled principles, is unable to entertain the writ petition for the inordinate delay and latches on the part of the petitioner to approach this Court. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS II)

// 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.

To

The Assistant Elementary Education Officer,
Vilathikulam-628 907,
Tuticorin District.

+1 CC to M/s.M.E.ILANGO, Advocate (SR-30106[F] dated 23/09/2021)
+1 CC to M/s.SPL.GP (SR-30028[F] dated 23/09/2021)

W.P. (MD) .No.2051 of 2014

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SRR(CO)

RS (06.10.2021) 4P 4C

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