



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.12.2021**

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P (MD) No.22698 of 2021
and
WMP (MD) No.19172 of 2021

A.P.Arumugam

...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 and Entitlements),
No.361, Anna Salai, Chennai - 600 018.

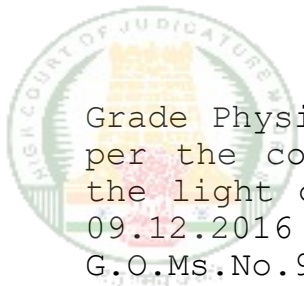
4.The Director of School Education,
College Road, Chennai - 6.

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

6.The Chief Educational Officer,
Dindigul District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating tot he impugned order of the fifth respondent herein in Na.Ka.No.3841/C5/E4/2011, dated 09.07.2021 and that of the impugned proceedings of sixth respondent herein in Na.Ka.No.4172/AA6/2021, dated 30.07.2021, quash the same and consequently 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 employed as Special



Grade Physical Education Teacher during 01.06.1988 and 31.12.1995 as per the common order dated 26.02.2020 in W.P.No.42169 of 2016, in the light of judgment of Honourable Full Bench of this Court, dated 09.12.2016 in Rev.Appln SR No.1946 of 2016 and being implemented in G.O.Ms.No.90, dated 09.12.2016.

WEB COPY

For Petitioner

:Mr.K.Appadurai

For R1,R2, R4 to R6

:Mr.P.T.Thiraviam,
Government Advocate

For R3

:Mr.P.Gunasekaran

O R D E R

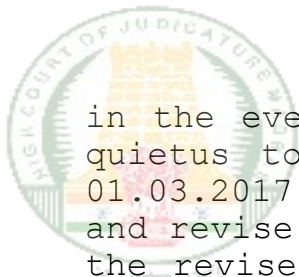
This writ petition is filed as against the order rejecting the petitioner's claim for fixing scale of pay in selection grade and special grade on the ground that the petitioner is retired from service in the year 1998.

2.The case of the petitioner is that he was appointed as Physical Education Teacher on 11.07.1957 in a District Board High School and during his service, he was conferred with selection grade on 01.01.1971 and special grade on 01.01.1981. According to the petitioner, he is entitled for the relief of fixing scale of pay in selection grade and special grade, as per G.O.181, School Education Department, dated 06.09.2013. After completion of 36 years of service, he was retired on 31.08.1993. Even after best efforts made by the petitioner, he was denied the relief. Hence, this petition.

3. Mr. Thiravium, learned Government Advocate takes notice for the respondents 1, 4, 5 & 6. Mr.P.Gunasekaran, learned Counsel takes notice for the third respondent. They strongly opposed this writ petition that the petition is not maintainable and the petitioner is a Physical Education Teacher and he is not entitled for selection grade and special grade. Selection grade and special grade were provided only to the Secondary grade teachers and Headmasters, who are working in the Primary School and Elementary School, vide G.O.Ms.No.216, dated 22.03.1993. The petitioner, without any basis has made a claim and he has also filed a Writ petition in the year 2011 and the same was disposed of by this Court on 28.03.2011, directing the respondents to pass orders by considering the petitioner's representation. Based on the orders of this Court only, G.O.Ms.No.181, dated 06.09.2013 was passed, thereby the petitioner is not entitled for the relief.

4.The respondents have also relied upon the decisions of the Full Bench of this Court in Review Application No. 227 of 2015, dated 09.12.2016, wherein, it was held as follows:-

38.Today, when the matters are taken up for consideration, keeping in mind the financial strain that would fall on the State exchequer



in the event of implementation of the G.O., and in order to give a quietus to the issue, we feel it appropriate to fix the date as 01.03.2017 from which date onwards, the Government shall calculate and revise the pension and family pension (without arrears) based on the revised scales of pay by implementing the G.O., for which, the learned Advocate General and the learned counsels appearing for the Teachers have fairly acceded to the same. Accordingly, we pass the following:

- i. The Government is directed to implement the G.O.Ms.NO.216, dated 22.03.1993 for the period between 01.06.1988 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 Headmasters;
- 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;

39. With the above directions, all the captioned matters, viz, Writ Appeals, Writ Petitions, Review Applications are disposed of and the Contempt Petitions are closed. There shall be no order as to costs. Consequently, all connected Miscellaneous Petitions are closed.

40. It is brought to the notice of this Court that Writ Appeals in W.A(MD) Nos. 1325 to 1327 of 2016, which were tagged with the present batch of matters inadvertently as they are not pertaining to G.O.Ms.No.216, dated 22.03.1993. Hence, the Registry is directed to



5. A learned single Judge of this Court though consented with this order, has passed further orders as follows:-

Concurring with conclusion of the Bench, it needs to be pointed out that how a seemingly innocuous original application filed by an individual employee before the Tamil Nadu Administrative Tribunal (now extinct) can give rise to a spate of litigation of stupendous proportion, flooding the institution and engaging very many Judges and Benches of this Court in rendering decisions routinely over the years, with little application, but more inclined to dispose of the Writ Petitions/Appeals due to impulsive urge for disposal of cases.

2. The Full Bench was constituted sans reference to remedy the extraordinary controversy which engulfed the institution with several Judges and Benches passing orders allowing and disallowing writ petitions/appeals filed by both the employees (Secondary Grade teachers etc.,) and the State Government. The starting point of controversy is the issue of G.O.Ms.No.216, dated 22.3.1993 wherein certain financial benefits were conceived and confined to a particular class of employees in a particular situation. The said G.O. was interpreted and misinterpreted by the parties to defend each one's action and on the basis of such (mis)interpretation plethora of orders came to be passed by this Court, some of which have been confirmed by the Hon'ble Supreme Court of India. The orders passed by the Court over a period of time cover thousands of employees who were working, retired and no more.

3. Batch after batch of writ petitions/appeals disposed off on the simple premise that the issue was covered in favour of the employees and they required no real adjudication. However, there were one or two exceptions to the mass routine disposal, of course these exceptions got buried under colossal weight of the orders passed in respect of thousands of writ petitions. The Government on its part, found itself in unenviable position having to comply with the orders passed by this Court, lest they would be hauled up for contempt. The Government throughout the litigious journey before this Court has not made any sincere effort to address the issue as to the foundational factors or basis for issue of G.O.Ms.No.216, dated 22.3.1993. In all the litigations atleast in most of the records, it could be seen that counsel



representing the Government merely accepted the position that the matters were covered and thus they thought that their responsibility fairly ended. Fearing contempt action from this Court (hundreds of contempt applications have been filed by the employees for non-compliance), the Government even passed another G.O. allowing the claims of the employees, notwithstanding the fact that the Government itself has filed several review applications and appeals against the routine orders passed by this Court.

4. The Government at last woken up to the fact that the entire issue needs to be addressed by this Court afresh, as thousands of Writ Petitions were allowed without proper examination and adjudication. Orders passed by this Court over the years, in favour of the employees by following the earlier order one after the other may be correct or incorrect and this Court may still hold in favour of the employees after proper judicial scrutiny and critical examination of the issues on hand. But the fact of the matter is that there was no proper adjudication of the claim by the Teachers vis-a-vis the Government Order in question and that precisely is the issue. However, it has become too late in the day for fresh adjudication and start the litigation process from the scratch all over again which means that thousands of beneficiaries of the orders passed by this Court would be forced to confront an uncertain future, which situation would be unwholesome. particularly the beneficiaries, most of them retired, many of them no more, they and the families have been living in a small comfort of recurring monthly pensionary hope. After all in the old age, hope is the only will for their remaining survival.

5. In these circumstances, the Full Bench in quest for equitable, just and fair solution, has to find the terms with pragmatism acceptable to both parties and at the same time, not upsetting the stated position of the parties. Such an arduous task was meant to be tight rope walking, not falling on either side and tilting the scales of justice, one way or the other. The Full Bench was bestowed with the task of remedying the extraordinary situation brought upon the institution, on its own, equally contributed by the employees and the Government and such extraordinary situation called for extraordinary remedy. The Full Bench with the best of its intention attempted only that and by an order the age old controversy which has been engaging the attention of this Court at the



instance of both the employees and the Government is effectively put an end to.

6. Courts being overburdened at all times, develop tendencies to dispose of cases as early as possible with good intention, having public interest in mind, but in its anxiety so, the Courts like in the present batches, fall in error in disposing of matters without complete adjudication. A small error of judgment followed routinely by others has snow balled into a behemoth today threatening the very efficacy of the justice delivery system.

7. The extraordinary situation as we have seen now in the batch of cases, should be an eye opener for the institution in future, as our perennial urge for quick disposal, howsoever, well meaning, has its flip side too.

6. According to the learned counsel appearing for the respondents, this petitioner is not entitled for the relief as per G.O.Ms.No.216, dated 22.03.1993. More over, this petitioner has made a claim after several years of his retirement and therefore this petitioner is not entitled for the relief.

7. At this juncture, the learned counsel for the petitioner claims that he would produce G.O.181, School Education Department, dated 06.09.2013, where his right has been granted by the Government.

8. Admittedly, the petitioner retired from service in the year 1998. After 23 long years, he has filed this writ petition. Even today, the petitioner's counsel seeks time to produce a Government Order, based on which, the petitioner is claiming his right. This Court is satisfied that this petition is not maintainable on the ground of laches as well as lack of materials.

9. In view of the above, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



vrn

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

- 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 and Entitlements),
No.361, Anna Salai, Chennai - 600 018.
- 4.The Director of School Education,
College Road, Chennai - 6.
- 5.The Joint Director of School Education,
College Road, Chennai - 6.
- 6.The Chief Educational Officer,
Dindigul District.

+1 CC to M/s.SPL GP (SR-40220[F] dated 23/12/2021)

ORDER MADE IN
W.P (MD) No.22698 of 2021
and
WMP (MD) No.19172 of 2021
22.12.2021

PKP/25.02.2022/7P/8C