



W.P.No.14267 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 19.12.2022

Coram:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. No.14267 of 2014

M.Sulthan Mohamad

... Petitioner

.Vs.

1.The Government of Tamil Nadu
rep. By its Secretary
School Education Department
Fort St.George
Chennai-600 009

2.The Director of Elementary Education
College Road, Chennai-600 006

3.The Joint Director of Elementary Education
College Road
Chennai-600 006

4.The District Elementary Educational Officer
Perambalur District, Perambalur

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India
for issuance of a Writ of Ceriorarified Mandamus, calling for the records of



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the 1st respondent in relation to Letter No.512/G2/2009-8 dated 12.02.2013 and quash the same and issue a consequential direction to the respondents to extend the benefit of Government Letter No.48 School Education Department dated 13.04.2005 to the petitioner and to grant higher scale of pay from the day following the last date of SSLC examination i.e. 25.10.1994 and grant arrears of salary and then fix last pay drawn for the purpose of pensionary benefits and then send the revised pension proposal to the Accountant General for sanction of pension and arrears of pension.

For Petitioner : Mr.R.Saseetharan

For Respondents : Mrs.S.Mytheye Chandru

ORDER

This writ petition is filed praying to quash the order of the 1st respondent dated 12.02.2013 and seeks to issue a consequential direction to the respondents to extend the benefit of Government Letter No.48 School Education Department dated 13.04.2005 to the petitioner and to grant higher scale of pay from the day following the last date of SSLC examination i.e.



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25.10.1994 and grant arrears of salary and then fix last pay drawn for the purpose of pensionary benefits and then send the revised pension proposal to the Accountant General for sanction of pension and arrears of pension.

2. The petitioner was appointed as Pre Vocational Instructor [Craft Instructor] on 01.09.1962. The Government of Tamil Nadu by G.O.Ms.No.1366 dated 05.09.1986 granted higher scale of pay to the Pre Vocational Instructors working in Middle school as that of the Craft Teachers working in the High Schools. Another Government Order in G.O.Ms.No.1195 dated 22.08.1999 has granted Selection Grade and Special Grade scale of pay to the Craft instructors working in Middle Schools as that of Craft teachers working in High Schools.

3. According to the petitioner, he passed S.S.L.C. Examination in 1994 and he is entitled for higher scale of pay as the Government issued G.O.Ms.No.1366 dated 05.09.1996 stating that the Craft Instructors working in the Middle schools are entitled for higher scale of pay on acquiring SSLC



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qualification. The G.O., further stipulates that craft teachers with SSLC qualification shall be allowed Secondary Grade Scale of pay irrespective of the fact whether they are working in Middle/High schools.

4. The petitioner made a representation to the 1st and 2nd respondents on 02.07.2006 seeking Secondary Grade scale of pay on the basis of the Government Letter No.48 dated 13.04.2005.

5. Government Order in G.O.Ms.No.48 dated 13.04.2005 would read that teachers working in Middle School/High School who acquire SSLC qualification, shall be given Secondary grade teacher scale of pay by following G.O.Ms.No.1366 dated 05.09.1986.

6. Since, the petitioner was not paid Secondary Grade scale of pay as per G.O.Letter No.48 dated 13.04.2005, the petitioner again on 05.04.2008 made a representation to the respondents referring to the above mentioned Government Orders. The petitioner also furnished relevant particulars to the



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respondents. Since no order has been passed, petitioner filed W.P.No.2295 of 2008 and this court by order dated 29.01.2008, passed the following direction:-

“ the first respondent shall consider the representation dated 02.07.2005 and if the above letter applies to the petitioner and persons similarly placed as such then the petitioner's entitlement shall be considered in the light of the said letter and appropriate orders shall be passed within 12 weeks.”

7. In pursuant to the order passed by this court dated 29.01.2008, the 1st respondent passed the impugned order dated 12.02.2013 rejecting the Secondary Grade scale of pay to the petitioner. The reasoning given was that the petitioner worked and retired in the Middle school on attaining the age of superannuation. Further the petitioner was not having the qualification of SSLC initially, however, passed SSLC only on 24.10.1994; therefore, paying the pay scale eligible for Middle school Teacher on the next day i.e. 24.10.1994 to the petitioner, does not arise.



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8. Challenging the above impugned order, this writ petition is filed.

The respondents filed counter affidavit, stating that in G.O.Ms.No.1366 dated 05.09.1986, the Government raised the qualification of the Craft Instructors in High Schools from E.S.L.C. To S.S.L.C., and in G.O.Ms.No.48 School Education Department, dated 13.04.2005 it has been stated that the Craft Instructors in Middle Schools and absorbed in High Schools are entitled for higher scale of pay. It is further stated in the counter that even though the petitioner has passed S.S.L.C. Examination, he is not entitled for higher scale of pay since he was working in the Middle School.

9. Eventually, the 2nd respondent-The Director of Elementary Education, has issued proceedings dated 24.03.2010 to the effect that as per the direction of this court in W.P.No.2295 of 2008 dated 29.01.2008, in the event of the Government paying the arrears to the petitioner, the same is worked out at Rs.120138/-. The 4th respondent-District Elementary Educational Officer, also issued a proceedings dated 23.09.2010 annexing



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the representation of the petitioner dated 02.07.2006, working sheet, Government Order in G.O.Ms.No.48 School Education dated 13.04.2005 along with a copy of the order passed by this court in W.P.No.2295 of 2008 for further action. However, the 1st respondent rejected the scale of pay eligible to the petitioner by erroneously pointing out that the petitioner has not acquired the eligible qualification for such pay scale at the time of initial appointment. However, the Government Order issued in G.O.Ms.No.48 dated 13.04.2005 and G.O.Ms.No.1366 dated 05.09.1986 would clearly point out that craft teachers with SSLC qualification from the day following the last date of the SSLC examination. As such, the impugned order passed by the 1st respondent is not sustainable.

10. In the light of the above discussion, the impugned order dated 12.02.2013 is set aside. This writ petition is allowed. The respondents are directed to extend the benefit of Government Letter No.48 School Education Department dated 13.04.2005 to the petitioner for the scale of pay eligible to the Middle school teacher and the said benefits shall be calculated for



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fixation of pay and for pensionary benefits for the relevant period and the same shall be payable to the petitioner within a period of six months from the date of receipt of a copy of this order. No costs.

19.12.2022

nvsri

To

- 1.The Secretary
School Education Department
Fort St.George
Chennai-600 009
- 2.The Director of Elementary Education
College Road, Chennai-600 006
- 3.The Joint Director of Elementary Education
College Road
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J.NISHA BANU, J.,

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