



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.06.2022

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 13726 of 2017
and
W.M.P. No. 14914 of 2017

1. A.Devaraj
2. M.Christop
3. N.P.Kumar
4. M.Santhanam
5. J.Kalaiselvi
6. M.Perumal ... Petitioners

-vs-

1. The Secretary to Government,
School Education Department,
Secretariat,
Fort St. George,
Chennai - 600 009.
2. The Director of School Education,
DPI Campus,
College Road,
Chennai - 600 006.
3. The Chief Educational Officer,
Perambalur District,
Perambalur.
4. The Chief Educational Officer,
Trichy District,
Trichy.
5. The Assistant Elementary Educational Officer,
Ialgudi,
Trichy District.
6. The Assistant Elementary Educational Officer,
Perambalur,
Perambalur District.

... Respondents



Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Respondents to extend the benefit of G.O. Ms. No. 216, Finance (PC) Department dated 22.03.1993 and G.O. Ms. No. 270, Finance (PC) Department dated 26.08.2010 in the light of the orders of the Hon'ble Division Bench in W.P. No. 8747 of 2009 dated 14.07.2009 confirmed by the Hon'ble Supreme Court of India in S.L.P. (Civil) CC. No. 2746 of 2010 dated 23.04.2010 and accordingly award Selection/Special Grade Scale of Pay with effect from 01.06.1988 and revision of pensionary benefits and pay arrears immediately to the Petitioners.

For Petitioners : Mr. R.Jayaprakash

For Respondents : Mr. G.Ameedius,
Government Advocate

O R D E R

Heard Mr. R.Jayaprakash, Learned Counsel for the Petitioner and Mr. G.Ameedius, Government Advocate appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioners, who had retired from service as Selection Grade/Special Grade Secondary Grader Teachers in Government Schools, have filed this Writ Petition seeking for a direction to the Respondents to extend the benefit of G.O. Ms. No. 216, Finance (PC) Department dated 22.03.1993 and G.O. Ms. No. 270, Finance (PC) Department dated 26.08.2010 in the light of the order dated 14.07.2009 in W.P. No. 8747 of 2009 passed by the Division Bench, which has been confirmed by order dated 23.04.2010 in S.L.P. (Civil) CC. No. 2746 of 2010 and accordingly, award Selection/Special Grade scale of pay with effect from 01.06.1988 and pay revised pensionary benefits and arrears immediately to the Petitioners.

3. After taking into account the divergence of judicial opinion on the entitlement to the benefits of G.O. Ms. No. 216 dated 22.03.1993 issued by the Government of Tamil Nadu, the Full Bench of this Court in Government of Tamil Nadu -vs- G.Eswaran [(2017) 2 MLJ 257] has 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



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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 22.3.1993 for the period between 1.6.1988 and 31.12.1995, on and from 1.3.2017 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 22.3.1993 payable on and from 1.3.2017;
- (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 evident from the aforesaid decision of the Full Bench of this Court that though benefit under the relevant Governmental Order had been extended to all the persons whose Writ Petitions were pending as on that date, it has been made clear in clause (iv) that no fresh Writ Petitions shall be entertained on and from 09.12.2016. Since the Petitioners have filed this Writ Petition only on 01.06.2017, which is apparently after that date, they would not be entitled to the benefits claimed in the Writ Petition.

4. In this context, reference must also be made to the dictum of the Hon'ble Supreme Court of India in State of Uttar Pradesh -vs- Arvind Kumar Srivastava [(2015) 1 SCC 347], where it has been held as follows:-

"22.1. Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of



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Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

22.2. However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

22.3. However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated person. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularisation and the like (see K.C.Sharma & Ors. v. Union of India (supra). On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence."

It is borne out from the materials placed on record that the Petitioners, who had retired from service on 30.06.2009, 30.06.2001, 31.05.2010, 31.01.2010, 31.08.2011 and 30.04.2001 respectively, had not at all made any claim for the benefits conferred under the relevant Governmental Order and their representation was made only on 15.06.2016 which is evidently belated. The affidavit filed in support of the Writ Petition offers no explanation for the laches and acquiescence on their



part in claiming the relief. Any endeavour by this Court to consider the stale claim made by the Petitioners despite the aforesaid binding rulings would unnecessarily cause financial burden on the public exchequer and militate against larger public interests, which cannot be countenanced.

In fine, this Writ Petition, which cannot be entertained, is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
School Education Department,
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Chennai - 600 009.
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Perambalur District.

+1 cc to Government Pleader Sr.NO. 38961

+1 cc to Mr.R.Jayaprakash, Advocate Sr.NO.39279(30/06/2022)

W.P. No. 13726 of 2017

nr(CO)

A.SK(29/06/2022)