



WEB COPY

W.P.No. 26384 of 2018



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 26384 of 2018

and

W.M.P.No. 30660 of 2018

1. G. Rajavelu
2. K. Gowri
3. N. Suresh
4. S. Antony Charles
5. A. Ganesh
6. T.C. Pooventhan
7. K. Kundavi Nachini
8. S.M. Sakthivel
9. P. Jeyakodi
10. A. Selvakumar
11. P. Ashok Kumar
12. P. Victoria Roseline
13. L. Senthil
14. P. Balu
15. S. Mohanraj
16. V. Rajasekaran
17. M. Senthil Raja
18. G. Ashok
19. G. Muthukumaran
20. T. Vasanthan
21. M. Sornam
22. S. Ashok

... Petitioners

Vs.



1. Government of Tamil Nadu
Represented by Principal Secretary to Government,
Finance (CMPC) Department,
Secretariat, Chennai – 600 009.

2. The Principal Secretary to Government,
School Education Department,
Secretariat, Chennai – 600 009.

3. The Director of School Education
Chennai – 600 006.

4. The Director of Elementary Education,
Chennai – 600 006.

... Respondents

Prayer: Writ Petition filed Under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to consider the fresh claim of the petitioners and pass appropriate orders extending the benefit of fixation of pay in the post of Secondary Grade Teachers with PP of Rs.750/- as granted in G.O.Ms. No.23, Finance (PC) Department dated 12.01.2011 with effect from 01.01.2011 on notional basis and all consequential benefits from 01.01.2006 as it was done for other categories of Teachers/posts and consequentially revise the scale of pay for the petitioners with all consequential benefits within a limited time frame.

For Petitioners : Mr. J. Ravi
for Mr. M. Ravi

For Respondents : Mrs. S. Mythreye Chandru
Special Government Pleader



ORDER

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The relief sought for in the present writ petition is to direct the first respondent to consider the fresh claim of the petitioners and pass appropriate orders extending the benefit of fixation of pay in the post of Secondary Grade Teachers with PP of Rs.750/- as granted in G.O.Ms. No.23, Finance (PC) Department dated 12.01.2011 with effect from 01.01.2011 on notional basis and all consequential benefits from 01.01.2006 as it was done for other categories of Teachers/posts and consequentially revise the scale of pay for the petitioners with all consequential benefits within a limited time frame.

2. The petitioners state that they are working as BT Assistants in the Tamil Nadu School Educational Service and promoted as such after 01.01.2006 but prior to 01.01.2011. The petitioners are commonly and collectively aggrieved by G.O.Ms.No. 23, Finance (PC) Department, dated 12.01.2011, by which the holders of the post of secondary grade teachers have been granted personal pay of Rs. 750/- with effect from 01.01.2011, which has been ordered to be included in the basic pay for the purpose of pay benefits. Since the petitioners were promoted from the post of



secondary grade teacher to the post of BT Assistant/Head Master prior to 01.01.2011, they have been deprived of the personal pay of Rs. 750/-. The secondary grade teacher who have been given promotion as B.T Assistant/Head Master after 01.01.2011 happened to draw higher salary than the petitioners and their likes who are seniors in service in the post of B.T. Assistant/Head Master and disparity in pay comes around Rs. 2000/- and it will increase in future resulting in serious anomaly in pay fixation.

3. With reference to the issue raised in the present writ petition pertaining to the Government Order issued in G.O.Ms. No. 23 Finance (PC) Department, dated 12.01.2011, the Division Bench of the Madurai Bench of Madras High Court allowed the Review Application (MD) No. 89 & 117 of 2021 filed by the Secretary to Government, School Education Department, Chennai on 04.02.202. The operative portion of the judgment of the Division Bench reads as under:

'34. An officials cannot interpret the G.O. or cannot implement without understanding the G.O. Now, in writ appeals without considering the counter, we have to decide whether the writ petitioners are eligible for special allowance as per G.O.Ms. No. 270 Finance (Pay Cell) Department, dated 26.08.2010



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and Special pay as per G.O.Ms. No. 23 Finance (Pay Cell) Department, dated 12.01.2011.

35. Because of false counter, the Government is going to suffer monetary loss. That is also another sufficient ground.

36. Admittedly, all the writ petitioners including in review applications were working as secondary grade teachers and promoted as B.T. Assistants. There is no doubt on 01.01.2006 all the petitioners were working as secondary grade teachers. Only after the date, they promoted as B.T. Assistant.

37. But, as per G.O.Ms. No. 270 Finance (Pay Cell) Department, dated 26.08.2010, date for special allowance Rs.500/- shall take w.e.f., 01.08.2010 and on the said date none of the petitioners were working as secondary grade teachers. The notional value revised pay in the schedule given above is 01.01.2006 and not for special allowance of Rs. 500/-

38. Again, as per G.O.Ms. No. 23 Finance (Pay Cell) Department, dated 12.01.2011 who were eligible for special allowances as per G.O.Ms. No. 270 Finance (Pay Cell) Department, dated 26.08.2010 can get special pay from 01.01.2011 B.T. Assistants can get only revised pay.

39. If two separate G.Os. for revision of pay and for special allowances had been issued



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confusion would not have come. Even after clarification issued on 18.04.2012, the same confusion continued.

40. As per G.O.Ms. No. 270 Finance (Pay Cell) Department, dated 26.08.2010, special allowance of Rs.500/- to Secondary grade teachers from 01.08.2010 and as per G.O.Ms. No. 23 dated 12.01.2011 Special Pay Rs. 750/- has w.e.f., 01.01.2011.

41. So, the writ petitioners who were all promoted before 01.08.2010 cannot claim special allowance and also special pay as per G.O.Ms. No.23 Finance (Pay Cell) Department, dated 12.01.2011. In writ appeals also all the respondents/writ petitioners were promoted before the crucial date i.e., 01.08.2010. Admittedly, benefit of G.O.Ms.No. 270 not given (already promoted). So, G.O.Ms.No. 270 and G.O.Ms. No.23 need not be combined.

42. Due to wrong/false counter affidavit and G.O.Ms. No. 234, dated 01.06.2009 and G.O.Ms. No. 58 dated 25.02.2011 not being placed before the writ court could not consider other points.

43. (i) Finally, these Review Applications are allowed by setting aside the order, dated 29.04.2021 made in W.A.(MD) No. 962 of 2018 and order, dated 10.06.2021 made in W.A.(MD) No. 1038 of 2020. No costs. Since W.A.(MD) Nos. 962 of



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2018 and 1038 of 2020 are allowed, the order dated 11.02.2020 passed in W.P.(MD) Nos. 19240 of 2014 and 16802 of 2015 are set aside.

43 (ii). Since the Review applications are allowed all the Writ appeals in W.A.(MD) Nos. 1854 to 1859 of 2021 also allowed by setting aside the order, dated 03.06.2021 in W.P.(MD) Nos. 9076, 9078, 9079, 9082, 9088 & 10750 of 2021. No costs. Consequently, connected miscellaneous petitions are closed.'

4. In view of the fact that the issues raised in the present writ petition is no more res integra, the petitioners are not entitled for the relief. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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S.M.SUBRAMANIAM, J.

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