



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.04.2022**

CORAM:

THE HONOURABLE **MR. JUSTICE S.M. SUBRAMANIAM**

W.P. (MD) Nos. 1011, 1017 & 1019 of 2021

J. George ...Petitioner in W.P. (MD) No. 1011 of 2021
S. Rajendran ...Petitioner in W.P. (MD) No. 1017 of 2021
D. Gnana Theeba Devakumari ... Petitioner in W.P. (MD) No. 1019 of 2021
/Vs./

1. The Government of India,
Represented by its Secretary,
Department of School Education,
Fort St. George,
Chennai-9.

2. The Director of School Education,
DPI Compound,
College Road,
Chennai-6.

3. The Chief Educational Officer,
O/o. of the Chief Educational Officer,
Virudhunagar District,
Virudhunagar.

4. The District Educational Officer,
Srivilliputhur,
Virudhunagar District

...Respondents 1 to 4 in all Writ Petitions

5. The Secretary,
C.M.S (Church Missionary Society)
Higher Secondary School,
Srivilliputhur,
Virudhunagar District.

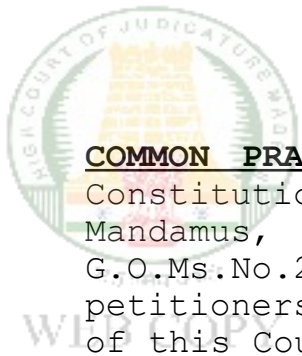
...5th Respondent in
W.P. (MD) No. 1011 of 2021

5. The Secretary,
Gurugana Sambanthar Hindu
Higher Secondary School,
Srivilliputhur,
Virudhunagar District.

...5th Respondent in
W.P. (MD) No. 1017 of 2021

5. The Secretary,
Maharajapuram Nagammal Rajaiah Desiya
Girls Higher Secondary School,
Srivilliputhur,
Virudhunagar District.

...5th Respondent in
W.P. (MD) No. 1019 of 2021



COMMON PRAYER :- Writ Petitions- filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, directing the respondents to extend the benefit of G.O.Ms.No.216, Finance (PC) Department, dated 22.03.1993 for the petitioners in the light of the order of the Hon'ble Division Bench of this Court in W.A. No. 3290 of 2019 by giving the Scale of Pay of Selection/Special Grade on par with the pay scale of Primary School Headmasters and accordingly by revising the petitioners' pensionary benefits and to pay all monetary benefits within a time frame as may be fixed by this Court.

For Petitioners : Mr.D.Shanmugaraja Sethupathi
For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader
for R1 to R4

COMMON ORDER

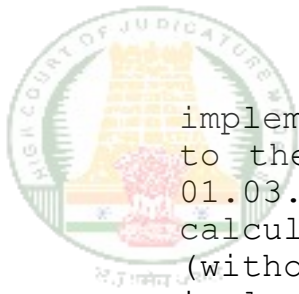
All these writ petitions are filed challenging the orders rejecting the claim of the writ petitioner to extend the benefit of the Government order issued in G.O.Ms.No.216 dated 22.03.1993.

2. The learned counsel for the petitioners reiterated by stating that the cut off date for filing a writ petition ie. 09.12.2016 fixed by the Hon'ble Full Bench of this Court in the case of Government of Tamil Nadu, School Education Department, v. G.Eswaran reported in 2017 (1) CWC 561 is contrary to the principles laid down by the Hon'ble Supreme Court of India. It is contended that when the benefit of Government order is extended to a group of employees, the same benefit cannot be denied to the other similarly placed persons. It is further stated that the cut off date fixed by the Hon'ble Full Bench need not be given effect to, in view of the fact that such cut off date is depriving the other similarly placed persons to get the similar benefits.

3. This Court cannot sit on appeal in respect of the judgment of the Hon'ble Full Bench of this Court. Once the Hon'ble Full Bench set aside the conflicting judgment passed by the Division Bench and laid down the principles, then, the said directions are binding and therefore, the contentions of the writ petitioner that the cut off date need not be implemented deserves no merit consideration. If at all the petitioners are aggrieved, they would have worked out their remedy in the manner known to law.

4. The Hon'ble Full Bench in Eswaran's case in clear terms held in Paragraph No.38, which reads as under:

"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 Counsel 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 W.P.(MD)Nos.4780 of 2015 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 M.Ps., thereof, are ordered."

5. Paragraph (iv) states that, "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". There is a specific reasoning by the Hon'ble Full Bench that there would be a greater financial



implications for the State Exchequer and further there are certain points, which were considered in respect of the manner in which Government orders are passed extending certain benefits in favour of the employees.

6. Taking overall view of the facts and circumstances, the Hon'ble Full Bench of this Court in the case cited supra fixed the cut off date for entertaining a writ petition as 09.12.2016. By following the Hon'ble Full Bench, 100's of writ petitions were already rejected by the Principal Bench at Madras and in Madurai Bench also. When such a view has been consistently taken by the High Court in compliance with the directions issued by the Hon'ble Full Bench in Easwaran case cited supra, there is no necessity to consider the argument as advanced on behalf of the writ petitioners. Thus, as per the Full Bench judgment, in Easwaran case, the writ petitions filed after 09.12.2016 is not entertainable and accordingly, all these writ petitions are dismissed. No costs.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

RR

To

1. The Secretary,
Department of School Education,
Fort St.George, Chennai-9.
2. The Director of School Education,
DPI Compound,
College Road, Chennai-6.
3. The Chief Educational Officer,
O/o. of the Chief Educational Officer,
Virudhunagar District, Virudhunagar.
4. The District Educational Officer,
Srivilliputhur, Virudhunagar District.

+3 CC to M/s.D. SHANMUGARAJA SETHUPATHI, Advocate (SR-18007[F] dated 12/04/2022)

+1 CC to M/s.SPL.GP. (SR-18161[F] dated 12/04/2022)

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RD(17.05.2022) 4P 9C

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