



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.22315 of 2019

and

W.M.P.(MD)No.19085 of 2019

A.Kannaiah ... Petitioner

-Vs-

1.The Accountant General, (Accounts and Entitlement),
No.361, Anna Salai, Theynampet,
Chennai.

2.The Secretary to Government,
School Education Department,
Fort St. George, Chennai.

3.The Chief Educational Officer,
Nagerkovil, Kanyakumari District.

4.The District Educational Officer,
Nagerkovil, Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 4th respondent made in Na.Ka.No.1855/A5/2019, dated 24.06.2019 and quash the same as illegal and consequently, direct the respondents 1 to 3 to pay the arrears of salary of Rs.56,205/- to the petitioner that fell due in between 01.10.1995 and 31.05.1999 along with 9% interest per annum.

For Petitioner : Mr.V.Angusamy
For R1 : Mr.P.Gunasekaran
Standing Counsel
For R2 to R4 : Mr.V.OM.Prakash,
Government Advocate.

ORDER

The order of the 4th respondent dated 24.06.2019 is sought to be quashed. Further direction is sought for to pay arrears of salary of Rs.56,205/- (Rupees Fifty Six Thousand Two Hundred and Five Only) to the petitioner, that fell due between 01.10.1995 and 31.05.1999.

2.The petitioner joined services of the School Education Department in the post of Elementary Grade Teacher. He was subsequently absorbed as Secondary Grade Teacher with effect from



03.04.1969. The petitioner already retired from service on 31.05.1999 and he is a pensioner. The claim of the writ petitioner is that the pay was erroneously fixed in between 01.10.1995 to 31.05.1999.

3.The petitioner had earlier filed a Writ Petition in W.P.(MD)No.34213 of 2006. At the time of filing the present Writ Petition, the petitioner is aged about 79 years. Even at the time of filing the earlier Writ Petition, the petitioner was aged about 65 years. Thus, the petitioner has approached this Court belatedly, after a lapse of six years from the date of retirement in respect of his claim regarding pay of the year 1999. Though this Court had passed an order dated 27.01.2010, directing the authorities to pass appropriate orders, within a period of twelve weeks, the writ petitioner has not pursued the matter for long time. The fourth respondent has passed an order in the year 2019 and aggrieved by the same, the present Writ Petition is filed.

4.The District Educational Officer, Nagerkovil / fourth respondent has filed counter affidavit, categorically stating that all such pay and allowances due with reference to the relevant time settled in favour of the petitioner. In this regard, paragraph Nos.4 and 8 of the counter affidavit are relevant, which are extracted hereunder:-

"4.It is submitted that the petitioner was initially appointed as Junior grade Teacher in Government Primary School, with effect from 16.11.1962 and subsequently absorbed as Secondary Grade Teacher with effect from 3.4.1969. The petitioner has filed Writ petition seeking regularization of his services with effect from the date of appointment and as per the directions of this Hon'ble Court made in W.P.No 34213 of 2006 dated 27.1.2010, the services of the petitioner was regularized with effect from 16.11.1962. It is further submitted that the petitioner has filed another Writ petition seeking fixation of pay and payment of arrears of pay and allowances and as per the directions of this Hon'ble Court in W.P.No. 5813/2014 Dated 22.7.2015, the pay of the petitioner was duly refixed in the regular time scale of pay with effect from 16.11.1962 as per the orders of the Assistant Elementary Educational officer, Nagarcol vide Rc.82/ B/ 2015 dated 1.2015 and the pay fixation arrears was also claimed and paid to the petitioner. It is further submitted that the petitioner was retired on attaining the superannuation on 31.5.1999 and accordingly revised pensionary benefits was also granted by the Accountant General. While so, the petitioner has made a representation seeking payment of arrears from 1.10.1995 to 31.5.1999. As the claim relates to Special Grade in the post of Primary School

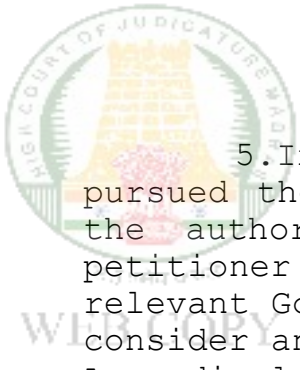


Head Master ordered with reference to G.O.Ms.No.207 School Education Department dated 30.9.2008, the petitioner is not entitled for arrears and such concession was granted only for pensionary benefits. Hence the petitioner was duly informed as per the proceedings of the 4th respondent in rc.1855/A6/2019 Dated 24.6.2019. Aggrieved by the above orders, the petitioner has filed this Writ petition.

8.Regarding the averments in para 5 of the affidavit of the petitioner, it is submitted that the pay of the petitioner was duly fixed in ordinary grade, Selection Grade and special Grade. Admittedly, the petitioner was sanctioned and paid arrears of pay and allowances in the post of Selection Grade in Secondary Grade and special Grade and Secondary Grade as per the pay fixation statement approved by the Addl.Assistant Elementary Educational Officer. Nagarkoila. The brief details of pay fixation is as follows:

Pay fixed as on 1.10.1995 in the post of Primary School Head Master selection Grade	Rs.2420/-
Pay fixed as on 1.1.1996 in the Revised Scale of Pay (GO.427/Fin.28.8.98	Rs.7500 (6500-200-10500)
Special Grade in Primary School Head Master, granted as per GO.Ms.No.207 School Edn. 30.9.2008	1.10.1995
Pay fixed in the post of Special Gr. Primary School HM as on 1.10.1995	Rs.2480

It is submitted that the petitioner is now claiming the difference between the pay fixed in the post of Special Grade Primary School Head Master as on 1.10.1995 upto his date of retirement on 31.5.1999. In the mean while the pay of the petitioner was refixed in the revised Scale of Pay with effect from 1.1.1996. As per the Government orders in G.O.Ms.No.207 School Education Department dated 30.9.2008, the concession of granting Selection Grade and special Grade taking into consideration of the entire service is only for the purpose of Pensionary benefits and there is no provision for the payment of arrears. Hence the petitioner is not entitled for arrears for the above period."



5. In view of the fact that the petitioner himself has not pursued the matter during the relevant point of time and further, the authorities have also stated that the claim of the writ petitioner was settled long back in January, 2015 as per the relevant Government Order in force, there is no reason whatsoever to consider any further relief in respect of the present Writ Petition. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Myr

To

1. The Accountant General, (Accounts and Entitlement),
No.361, Anna Salai, Theynampet,
Chennai.
2. The Secretary to Government,
School Education Department,
Fort St. George, Chennai.
3. The Chief Educational Officer,
Nagerkovil, Kanyakumari District.
4. The District Educational Officer,
Nagerkovil, Kanyakumari District.

+1 CC to Mr. Special Government Pleader, SR.No. 6230

W.P. (MD) No. 22315 of 2019

14.02.2022

kmv (CO)

TR(01.03.2022) 4P 6C