



WEB COPY

W.P.(MD)



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) No. 650 of 2017

and

W.M.P. (MD) Nos. 512 of 2017 & 16534 of 2018

S. Mary Pushpalatha

... Petitioner

Vs.

1. The State of Tamil Nadu, Rep by its Secretary,
Department of School Education,
Fort Saint George, Chennai - 600 009.
2. The Director of School Education,
College Road, Chennai - 600 006.
3. The District Educational Officer,
Tuticorin District.
4. The Correspondent,
Saint Joseph Girls' Higher Secondary School
Sathankulam, Tuticorin 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 impugned proceedings issued by the 3rd respondent in O.Mu.No.5590/A4/2016 dated 21.11.2016 quash the same and further direct the 3rd respondent to sanction the bonus increment to the petitioner w.e.f., 01.10.2014 on completion of 30 years of service in the cadre of Secondary Grade Teacher.

For Petitioner : M/s.Ajith Geethan
For R-1 to R-3 : Mr.S.Kameswaran,
Government Advocate

ORDER

This Writ Petition has been filed to quash the impugned proceedings issued by the 3rd respondent in O.Mu.No.5590/A4/2016, dated 21.11.2016 and further seeking direction to the 3rd respondent to sanction the bonus increment to the petitioner, w.e.f., 01.10.2014, on completion of 30 years of service in the cadre of Secondary Grade Teacher.

2. Initially, the petitioner was appointed as a Craft Teacher on 20.06.1983 with S.S.L.C. qualification in the 4th respondent school, subsequently, he was appointed as secondary grade

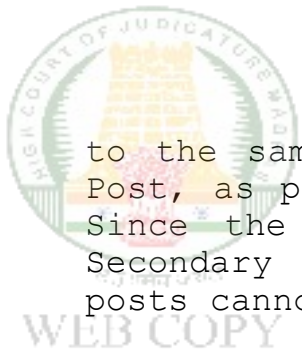


teacher on 12.07.1989 without any break in service. On completion of 10 years including past service in the cadre of Craft Teacher, the petitioner was granted Selection Grade as per G.O.Ms.No.1366 Education Department, dated 05.09.1986. Subsequently, granted Special Grade with effect from 02.10.2004. Subsequently, the school has submitted a proposal for granting bonus increment on completion of 30 years with effect from 01.10.2014 and the proposal was returned, vide order, dated 21.11.2016, stating that the service rendered in Craft Teacher post cannot be counted for fixing Selection Grade and Special Grade. The respondents directed the school to collect and remit the excess amount paid to the petitioner. Aggrieved over the same, the present writ petition is filed.

3. At the time of admission, this Court granted an interim order, vide order, dated 24.01.2017. The respondents have filed counter affidavit along with vacate stay petition, stating that the petitioner was appointed as Secondary Grade Teacher only from 12.07.1989. Hence the petitioner is entitled to Selection Grade on completion of 10 years on 11.07.1999 and Special Grade on completion of 20 years on 11.07.2009. The petitioner would be entitled to Special Bonus increment on 31.03.2019. But the petitioner has attained superannuation on 31.03.2018. Since the petitioner was retired from service prior to one year before completing 30 years of service, the petitioner is not entitled to bonus increment. As per G.O.Ms.No.333 Education, dated 14.02.1977, the period rendered in the same category of the post alone shall be counted for counting Selection Grade, Special Grade, but the petitioner was wrongly granted Selection Grade from 1994 to 2004, by calculating Craft Teacher service and the same cannot be counted. The G.O.Ms.No.1366 Education Department, dated 05.09.1986, speaks about extension of scale of pay of Rs.610-20-730-25-955-30-1075 to the Craft teachers of Middle Schools with SSLC qualification, as on 01.10.1984. Prior to 01.10.1984, the scale of pay of Craft Teacher is equivalent to scale of pay of Higher Grade Teacher and not equivalent to Secondary Grade Teacher. There is no whisper in the G.O.Ms.No.1366 Education Department, dated 05.09.1986 to count the service rendered as Craft teacher in middle school awarding selection grade and special grade in the secondary grade, which is a separate category. They prayed to dismiss the writ petition.

4. Heard Ajith Geethan, learned counsel appearing for the petitioner and Mr.S.Kameswaran, learned Government Advocate, appearing for the respondents. Perused the material documents available on record.

5. The claim of the petitioner is that, since the petitioner has rendered the service in Craft Teacher post and the petitioner is having SSLC qualification. The petitioner is entitled



to the same scale of pay i.e., applicable to the Secondary Grade Post, as per G.O.Ms.No.1366 Education Department, dated 05.09.1986. Since the scale of pay is same the post of Craft Teacher and Secondary Grade Teacher are treated as equivalent. The said two posts cannot be considered as two different posts.

6. The learned counsel appearing for the respondent submitted that, there is no specific provision or in Government order, where, it says that the Secondary Grade Post and the Craft Teacher Post ought to be considered as same/similar post. But, it is considered as different posts in certain government orders and hence the claim of the petitioner is not sustainable.

7. Admittedly, the said G.O.Ms.No.1366 dated 05.09.1986, only states that the Craft Teacher if possessing SSLC qualification shall be allowed Secondary Grade Scale of pay and the relevant portion is extracted hereunder:

.....
"2.....The Craft teachers with the S.S.L.C. qualification shall be allowed Secondary Grade scale of pay of Rs.610-20-730-25-955-30-1075 irrespective of the fact, whether they are working in middle/High schools. The unqualified Craft teachers that is with the VIII std., qualification, shall be allowed time for a minimum period of 3 years to qualify themselves after that they shall be allowed Secondary Grades scale of pay Rs.610-20-730-25-955-30-1075"

(*)8. The Government has not issued any clarification or any Government Orders stating that the post of Craft Teacher and the Secondary Grade post as one and the same. But the scale of pay is equal for both the post as per government order in G.O.Ms.No.1366 dated 05.09.1986. The respondents have stated in the counter that prior to 01.10.1984, the scale of pay of Craft Teacher is equivalent to scale of pay of Higher Grade Teacher and not equivalent to Secondary Grade Teacher. Even if it is taken prior to 01.10.1984 the scale of pay is not equivalent to Secondary Grade Teacher, but after 01.10.1984 the scale of pay is equivalent to Secondary Grade Teacher. In such circumstances, plea raised by the respondents is erroneous.

(*)9. The benefit of granting equal scale of pay was granted through G.O.Ms.No.1366, dated 05.09.1986. Subsequent to the aforesaid Government Order, the Government issued G.O.Ms.No.1105, dated 22.08.1989, wherein, the scale of pay for Selection Grade and Special Grade shall take notional effect from 01.10.1984, for the



purpose of fixation of pay in that scale with monetary benefits from 01.04.1986. Based on this Government Order, the petitioner's Selection Grade shall be fixed from 01.10.1984 and thereafter, Special Grade also fixed. Now, the petitioner is seeking 30 years stagnation payment. Since Selection Grade and Special Grade were fixed notionally from 01.10.1984 with monetary benefit from 01.04.1986, the petitioner is entitled to calculate 30 years service from 01.10.1984 onwards. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

10. Accordingly, this Writ Petition is allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

(*)Corrected as per the order of this Court 23.01.2023

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/04/2023

Sub Assistant Registrar(CS)

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To

1. The Secretary,
The State of Tamil Nadu,
Department of School Education,
Fort Saint George, Chennai - 600 009.
2. The Director of School Education,
College Road, Chennai - 600 006.
3. The District Educational Officer, Tuticorin District.

+1 CC to M/s.SPL.GP (SR-57887[F] dated 28/11/2022)

W.P.(MD)No.650 of 2017
25.11.2022

KB(31.03.2023) 4P 5C