



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 04.02.2022

PRONOUNCED ON : 14.06.2022

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P. (MD)No.18891 of 2016

S.Muthugopala Krishnan

... Petitioner

vs.

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

2.The Director of School Education,
School Education Department,
DPI Campus, College Road,
Nungambakkam, Chennai -600 006.

3.The Chief Educational Officer,
Virudhunagar District, Virudhunagar.

4.The District Educational Officer,
Srivilliputhur, Virudhunagar District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents herein to revise the scale of pay of the petitioner and to pay revised Special Grade pay as per G.O.Ms.No.304, Finance Department, dated 28.03.1990 and G.O.Ms.No.216 Finance Department, dated 22.03.1993, on par with Elementary Headmaster scale of pay to the petitioner from 07.01.1980 to 31.01.2015 till his date of retirement with all monetary benefits.

For Petitioner

: Mr.M.Saravanan

For Respondents R1 to R4

: Mr.R.Ragavendran

Government Advocate
(Civil side)

O R D E R

This Writ Petition is filed for issuance of a Writ of Mandamus, to direct the respondents herein to revise the scale of pay of the petitioner and to pay revised Special Grade pay as per G.O.Ms.No.304, Finance Department, dated 28.03.1990 and G.O.Ms.No.216 Finance Department, dated 22.03.1993, on par with Elementary Headmaster scale of pay to the petitioner from 07.01.1980 to 31.01.2015 till his date of retirement with all monetary benefits.



2. The petitioner was appointed as Secondary Grade Teacher on 07.01.1980 and was granted Selection Grade on 07.01.1990, then, Special Grade on 07.01.2000 and retired from service on 31.01.2015 as Secondary Grade Teacher from N.A.Annapparaja Memorial Higher Secondary School, Rajapalayam. The contention of the petitioner is that the Government of Tamil Nadu has issued G.O.Ms.No.304, Finance Department, dated 28.03.1990, wherein, the scale of pay of the Selection Grade and Special Grade Secondary Grade Teachers have been revised on par with Elementary School Head Master and subsequently, the Government issued G.O.Ms.No.216, Finance Department, dated 22.03.1993. In the said G.O., it has been clearly stated that in High Schools and Higher Secondary Schools, no promotional avenue for Secondary Grade Teachers and therefore, they should be paid salary equal to the Elementary School Head Master pay. Since the petitioner was not aware of the said G.O.s, the petitioner has not claimed the benefits, while he was in service. After retirement, the petitioner is comparing with other Teachers, who have received the benefits as per the said G.O.s and has approached this Court by way of this Writ Petition.

3. The petitioner averred that one Ayyasamy retired on 30.04.2001, who worked as Secondary Grade Teacher in R.K. Government Higher Secondary School, P.Ramachandrapuram, preferred a Writ Petition in W.P.(MD)No.12321 of 2011 and by way of order, dated 22.12.2011, the respondents were directed to revise the pay scale and the third respondent, vide proceedings, dated 06.11.2013, revised the scale of pay to the said Aiyasamy. On 11.07.2016, the petitioner submitted representations to the respondents, vide order, dated 25.07.2016, directed the fourth respondent to take appropriate action at the earliest. Since the respondents have not taken any action, the petitioner has preferred the present Writ Petition.

4. The respondents have filed a counter affidavit stating that the petitioner joined N.A.A.Memorail Higher Secondary School, Rajapalayam. During his service, he was awarded Selection Grade and Special Grade. After that, he was also awarded stagnation increment for completion of 30 years of service and hence it is evident that the petitioner has availed the benefit as per G.O.No.304, Finance Department, dated 28.03.1990. The petitioner worked in the aided Higher Secondary School, which is single management. The petitioner's School was not sanctioned any post as Elementary School Head Master. The petitioner was not qualified for further promotional post, so without sanctioned post in his School the petitioner is seeking promotion as well as the promoted post salary benefit is highly irregular. The petitioner is comparing with the Government School Teachers. The Service Rules applicable to Government and Aided Schools are different. The petitioner cannot



compare the Government School Teachers because in Government School the promotion is based on the seniority and other rules and regulations. The G.O.Ms.No.216, Finance Department, dated 22.03.1993, is not applicable to the petitioner. The petitioner has preferred this Writ Petition after a lapse of so many years. Hence, prayed to dismiss the Writ Petition.

5. Heard Mr.M.Saravanan, learned Counsel appearing for the petitioner and Mr.R.Ragavendran, learned Government Advocate appearing for the respondents and perused the materials on record.

6. The petitioner has retired on 31.01.2015 and has filed this writ 28.09.2016. The petitioner is claiming the benefits of G.O. Ms. No. 216 dated 22.03.1993 and has filed this writ petition in the year 2016 i.e. after lapse of 23 years and the same is hit by the principles of delay and laches. On this ground itself the present petition is liable to be dismissed.

7. The petitioner had served in N.A.A.Memorail Higher Secondary School, Rajapalayam, which is a Private Aided Non-Minority School run by a single management. The school is not sanctioned any Headmaster post and hence the petitioner will not get any opportunity to be promoted to Headmaster post. Therefore, the claim of the petitioner that he was not promoted as Headmaster is erroneous. Hence the petitioner will not get any promotion and hence the petitioner is entitled only to selection grade and special grade alone. The rules and regulations that are applicable to government school are not applicable to the private aided school and in such circumstances, the claim of the petitioner that he was not granted any promotion is erroneous.

8. The concept of granting Selection Grade and Special Grade is that if any employee is stagnating in a post without promotion, then he will be granted Selection Grade and if the employee is continuing to stagnate in the same post for more than 20 years, then he will be granted Special Grade. If an employee is continuing in the same post for more than 30 years, then he will be granted stagnation increment. This Court has elaborately dealt with the concept of selection grade and special grade in W.P.(MD) No.3186/2016 in the case of V. Jothi Chandra and W.P.(MD)No. 3186 / 2016 in the case of T. Valliammai and has dismissed the writ petitions. In this present case, the petitioner was stagnating for more than 30 years and he was granted Selection Grade for stagnating for more than 10 years on 07.01.1990, then, Special Grade on 07.01.2000. The petitioner has retired from service on 31.01.2015 and he was also granted with bonus increment for stagnating in the same post for more than 30 years. G.O.Ms.No.216, Finance Department, dated 22.03.1993, states



that the grant of Selection Grade and Special Grade was stopped through G.O.No.666, (PC) Department, dated 27.06.1989. Since there were several representations, the Government considered the representations and passed G.O.Ms.No.216, Finance Department, dated 22.03.1993. In Clause 3 Sub Clause 2 of the said G.O., it has been stated as under:

"(ii) In respect of Secondary Grade Teachers in High Schools there is no promotion post for them as on 28.03.1990 (i.e. The date of issue of the G.O. Second read above), although there is promotion post in Primary Schools. As a measure of uniformity in respect of all Secondary Grade Teachers, Government direct that the Teachers be made eligible for Selection / Special grades as in Annexure-I to the G.O. second read above."

9.It has been clearly stated that for the Secondary Grade Teachers in High Schools, there is no promotional avenue but for the Secondary Grade Teacher in Primary Schools, promotions are available. As a measure of uniformity, the Secondary Grade Teachers are eligible for Selection Grade and Special Grade as in Annexure-I of the G.O. second read above. The claim of the petitioner that the G.O. states to grant selection grade and special grade applicable to the post of Primary School Headmaster and this plea is absolutely erroneous and illegal. The G.O. only states to grant selection grade and special grade, which means the petitioner is eligible to selection grade and special grade in the post of Secondary Grade Teacher and not the selection grade and special grade in the post of Primary School Headmaster. This is even confirmed in the Pay Commission fixation also, where there is separate fixation of ordinary scale, selection grade and special grade for the post of Secondary Grade Teacher. Likewise there is separate fixation of ordinary scale, selection grade and special grade for the post of Primary School Headmaster. Therefore this Court is of the considered opinion that the plea of the petitioner to fix selection grade and special grade in the Primary School Headmaster post is illegal and hence the plea is liable to be rejected.

10.In G.O.Ms.No.304, Finance (Pay Commission) Department, dated 28.03.1990, the method of quantifying the Selection Grade and Special Grade to the Teachers is prescribed and the petitioner was granted selection grade and special grade for the post of Secondary Grade Teacher and hence the claim of the petitioner to grant selection grade and special grade for the post of Primary School Headmaster post is illegal as stated supra.

11.The respondents have specifically contended that the petitioner was granted bonus increment for completing 30 years of



service. Since the petitioner was granted Selection Grade, Special Grade and bonus increment for the post of Secondary Grade Teacher, the petitioner is not eligible as prayed for. As rightly pointed out by the respondents, the School was not having Head Master post at all. Therefore, there is no question on granting Selection Grade/Special Grade in the pay scale of Primary School Head Master. The petitioner has totally misconceived the G.O.s.

12. Therefore, the present Writ Petition is devoid of merits and hence, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

Tmg

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1. The Secretary to Government,
School Education Department,
Fort St. George, Secretariat, Chennai.
2. The Director of School Education,
School Education Department,
DPI Campus, College Road,
Nungambakkam, Chennai -600 006.
3. The Chief Educational Officer,
Virudhunagar District, Virudhunagar.
4. The District Educational Officer,
Srivilliputhur, Virudhunagar District.

+1 CC to M/s.R. SUBRAMANIAN, Advocate(SR-25704[F] dated
15/06/2022)

W.P. (MD) No.18891 of 2016

14.06.2022

MGJ(23.06.2022) 5P 6C