



W.P.No.18867 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2023

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

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P.Panchatcharam

...Petitioner

VS.

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
School Education Department,
Secretariat, Chennai -9.

2.Director of Elementary Education,
Chennai – 6.

3.District Elementary Educational Officer,
Thiruvannamalai,
Tiruvannamalai District.

... Respondents

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 2nd respondent in Na.Ka.No.023801/L2/10 dated 13.12.2010 and quash the same, and direct the respondents to sanction Special Grade in the scale of pay Rs.1640/- with effect from 01.06.1998 and confer all consequential benefits.



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For Petitioner : Mr.V.Sivalingam
for M/s.C.S.Associates

For Respondents : Mr.S.Ravi Chandran
Additional Government Pleader

ORDER

This Writ petition has been filed challenging the order passed by the 2nd respondent rejecting the claim of the petitioner for granting him Special Grade pay.

2. Heard Mr.V.Sivalingam, learned counsel for M/s.C.S.Associates for the petitioner and Mr.S.Ravi Chandran, Additional Government Pleader appearing for the respondents.

3. Mr.V.Sivalingam, learned counsel for the petitioner would submit that the petitioner was appointed as a Craft Instructor on 14.10.1967. At that time, the educational qualification for being appointed as a Craft Instructor was a pass in VIII Standard. By G.O.Ms.1366, Education Department, dated 05.09.1986, qualification of a Craft Instructor in a Middle School was fixed as a pass in SSLC. However, the teachers



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already working as Craft Instructors were given 3 years time to qualify themselves. The petitioner had passed SSLC on 24.03.1987 making himself eligible. By G.O.Ms.1105, Education Department, dated 22.08.1989, the Government had issued orders sanctioning Selection Grade and Special Grade. The petitioner was granted Selection Grade with effect from 02.03.1997. Therefore, he had made representations to the Government to take in to account the period of service that the petitioner had put in and also to grant him Special Grade. The said request had been rejected by the petitioner holding that the period which the petitioner worked without a proper qualification could not be counted in for considering the case of the petitioner for granting Selection Grade and Special Grade and that the petitioner was only entitled to be granted with a Selection Grade in 1997 as he had only passed SSLC in the year 1987 and rightly he had been granted Selection Grade in the year 1997 and further, as the petitioner had voluntarily retired from service before being granted with the Special Grade, he could not be granted the Special Grade Pay.

4. The learned counsel for the petitioner would contend that the



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petitioner was originally qualified to be appointed as Craft Instructor as per the then existing rules and only on the said qualification was sought to be increased by the Government in the year 1986, by giving time to the existing Craft Instructors to acquire the higher qualification within a period of time 3 years, within which period the petitioner had also qualified himself with the higher qualification. He would submit that therefore, the petitioner cannot be dis-entitled to get the benefits of the Selection Grade and the Special Grade. Therefore, he would submit that the order impugned herein will have to be set aside and direct the Government to comply with the Government order in G.O.Ms.No1105, Education Department, dated 22.08.1989 in its proper prospective.

5. Countering his arguments, learned Additional Government Pleader would contend that the petitioner was appointed in the year 1967 and he would submit that the petitioner had not completed 20 years of service to be awarded the Special Grade Instructor in the post of Craft Instructor with a SSLC qualification. He would submit that he had completed 10 years of qualifying service with the qualification of SSLC and



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therefore, he was rightly awarded Selection Grade in the year 1997.

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6. I have considered the rival submissions made by the learned counsels appearing for their respective parties and perused the materials available on record before this Court.

7. The issue raised in this Writ Petition is no longer *res integra* and the same has been elucidated in a judgment of this Court in W.P.No.32447 of 2005. For better appreciation, the relevant paragraph of the said order is extracted hereunder:-

“6. I have considered the submissions made on either side. As far as awarding of selection grade and special pay to the employees is concerned, it is post oriented and not pay oriented. The selection grade awarded to the petitioner is for the service rendered by her in the post of craft instructor, Originally, when she was appointed in the year 1982 as a craft instructor the required qualification is not a pass in S.S.L.C. Subsequently, in the year 1986 the qualification has been raised along with a raise in the pay scale and the



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Government has also introduced selection grade and special grade to the post of craft instructors by G.O. Ms. No: 1366, Education Department dated 5.9.1986. In the above said Government Order there is no whisper for award of selection grade and special grade to the craft instructors taking into account the service rendered by them after acquiring the qualification of pass in S.S.L.C. In fact, the Government issued an instruction to that effect in the year 1990 that has been challenged in O.A. No: 1335 of 1993 in which the Tribunal has given a finding that the total service rendered has to be taken into account for awarding selection grade and special grade and not the service rendered in the High School alone should be taken into account. This order of the Tribunal has been confirmed by an order dated 27.05.2001 passed by the Division Bench of this Court in W.P. No: 12066 of 1999 and subsequently, this was also confirmed by the Hon'ble Supreme Court. As such, the reason given in the impugned order that basing on the acquiring of pass in S.S.L.C. alone the petitioner is entitled to selection grade and special grade is totally erroneous and also contrary to the orders passed by the Division Bench of this Court. As such, the impugned order is prima facie illegal and the name is set aside. The Writ petition is allowed with no orders as to



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the costs.”

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8. From the aforesaid extract it could be seen that the Tamil Nadu Administrative Tribunal had in fact held that the claim of the Government as made in the present case is not correct and had directed the benefit of Selection Grade and Special Grade even to the persons who had originally selected prior to G.O.Ms.No.1366, Education Department, dated 05.09.1986. The said order of the Tribunal had been affirmed by the Division Bench of this Court and confirmed by the Hon'ble Apex Court and therefore, the learned Single Judge had allowed the Writ Petition by setting aside the similar order impugned in this Writ Petition passed by the 2nd respondent. Such order had been passed by the learned Single Judge by taking into account the fact that the Tribunal's order had been confirmed by the Division Bench of this Court in its order dated 25.07.2012 and had been affirmed by the Hon'ble Apex Court. The order of the Single Judge had been made on 02.12.2006 and the present order impugned in this Writ Petition had been made on 13.12.2010, very much after the issue had been put to rest. Therefore, the order impugned in this Writ Petition is not only illegal but also contemptuous.



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10. In fine, this Writ Petition is allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

09.11.2023

gba
Index : Yes/No
Speaking order : Yes/No
Neutral Citations : Yes/No

To

1.The State of Tamil Nadu,
Represented by its Secretary to Government,

8/10



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School Education Department,
Secretariat, Chennai -9.

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2. Director of Elementary Education,
Chennai – 6.

3. District Elementary Educational Officer,
Thiruvannamalai,
Tiruvannamalai District.

K.KUMARESH BABU, J.

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