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W.P.No.28549 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on : 08.12.2022

Orders delivered on 06.01.2023

CORAM :

THE HON'BLE Mrs.Justice **J.NISHA BANU**

W.P.No.28549 of 2013

C.Balagururaja

Vs

.. Petitioner

1. The Government of Tamil Nadu,
Represented by its Principal Secretary,
School Education Department,
Fort St.George,
Chennai-600009.
2. The Principal Accountant General,
Office of the Principal Accountant General
(Accounts & Entitlements) Tamil Nadu,
No.361, Anna Salai, Chennai-600 018.
3. The Director of Elementary School Education,
College Road, DPI Complex, Chennai-600 006.
4. The District Elementary Education Officer,
Villupuram.
5. The Assistant Elementary Educational Officer,



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Thiagadurgam Union, Thiagadurgam,
Villupuram District – 606 206

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution to issue a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the 2nd respondent dated 25.09.2012 in Pen.20/IV/Rn/22000140/2012-13/ADK/275 and 03.01.2013 in Pen.20/3/32000140/2012-13/Rev/ADK and quash the said orders and direct the respondents to refix the pay and pension of the petitioner with effect from 14.10.2007 by granting one bonus increment as an incentive in terms of G.O.No.562, Finance (Pay Cell Department), dated 28.09.1998 as the revised proposal send by the 5th respondent in his reference No.491/A1/2012 dated 02.05.2012 and 16.11.2012, settle the outstanding amount immediately to the petitioner.

For Petitioner	: Mr.K.Sellathurai
For Respondents	: Mrs.Mythreye Chandru Spl.Govt.Pleader for R.1 & R.3 Mr.S.Balaji for R.2

ORDER

This writ petition has been filed challenging the order of the 2nd respondent dated 25.09.2012 and dated 03.01.2013 and direct the



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respondents to refix the pay and pension of the petitioner with effect from 14.10.2007 by granting one bonus increment as an incentive in terms of G.O.No.562, Finance (Pay Cell Department), dated 28.09.1998 and to settle the outstanding amount to the petitioner.

2. Heard the learned counsel for the petitioner, the learned Special Government Pleader appearing for the 1st and 3rd respondents and the learned counsel appearing for the 2nd respondent.

3. The case of the petitioner is that he was originally appointed as Part Time Craft Teacher on 21.11.1971 and was regularised as Weaver Instructor in the regular vacancy on 18.12.1973 and continued to work in the same School from the date of appointment till his retirement on 28.02.2009. The petitioner was given selection grade on 14.10.1987 and special grade on 14.10.1997 and worked in the same post as Weaving Instructor till his retirement. The Government passed an order in G.O.Ms.No.562 Finance (Pay Cell) Department dated 28.09.1998 for the employees stagnating in a post beyond 30 years i.e., employees stagnating in the special grade beyond 10 years be granted one bonus increment as incentive. The petitioner has



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completed 30 years of service on 18.12.2003 and 10 years special grade on 14.10.1997 and in terms of G.O. he is entitled to one bonus increment with effect from 14.10.2007. The petitioner made several representations to the respondents to grant one bonus increment in terms of G.O.Ms.No.562, but the petitioner pension was fixed without bonus. The 5th respondent sent revised pension proposal along with petitioner's Service Register dated 2.5.2012 to the 2nd respondent but the 2nd respondent returned the revised pension proposal on 25.09.2012. The 5th respondent passed an order on 02.05.2012 granted bonus increment with effect from 1.10.2007 and sent the revised pension proposal addressed to the 2nd respondent. The 5th respondent has also sent the revised pension proposals on 16.11.2012 but the 2nd respondent returned the revised pension proposals on 03.10.2013. seeking for clarification but the 2nd respondent has no jurisdiction to seek any clarification or deny the revised pay scale and pension. Hence, this writ petition with the aforesaid relief.

4. Learned counsel for the petitioner would submit that the order passed by the 2nd respondent is without jurisdiction and without considering



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the proposals sent by the 5th respondent and without considering G.O.No.562 dated 28.09.1998. The petitioner is entitled for one bonus increment as an incentive. The 2nd respondent has no jurisdiction to return the proposals and it is against the Service Rules. The petitioner is entitled for one bonus increment for having 30 years of service in the same post and stagnating beyond 10 years from the Special Grade increment. The petitioner was given Special grade on 14.10.1997 and Super grade was due on 14.10.2007 but he retired from service on 28.02.2009. He was continuously working in the same post as Weaver Instructor for more than 30 years. He was not promoted to any other higher post in his service till his retirement and he worked in the higher grade scale of pay, secondary grade scale of pay and selection grade scale of pay in the same post as Weaving Instructor. Hence, he is entitled to one bonus increment as incentive as per G.O.No.562 dated 28.09.1998. The 5th respondent has clearly stated in their letter dated 29.05.2012 and 16.12.2012 that the petitioner is eligible for bonus and increment. When the 5th respondent has confirmed the grant of increment, the 2nd respondent has no jurisdiction to seek any clarification or deny revised pay scale and



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pension. Therefore, he would pray to allow this writ petition.

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5. On the contrary, the learned Special Government Pleader would vehemently contend that the petitioner was originally appointed as a Part Pre-Vocational Instructor under fixed pay of Rs.30/- per month on 21.11.1971 in the Panchayat Union Middle School, Pudu Uchimedu in Thiagadurgam Union of Villupuram District. Thereafter, the petitioner was brought into regular post as Full time Pre-Vocational Instructor (Weaver Instruction) in the scale of pay of Rs.150-4-170-225 with effect from 18.12.1973. The above scale of pay is equal and same with the scale of pay applicable to the post of Higher Grade Teacher. Thus, the petitioner was hold two different posts carrying two different scale of pay. The petitioner passed S.S.L.C. Public Examination in October, 1987 and the pay of the petitioner was fixed in the scale of pay applicable to the post of secondary grade teacher with effect from 14.10.1987. The petitioner was awarded Selection Grade and Special Grade with effect from 14.10.1987 and 14.10.1997 respectively on par with the scales of pay applicable to the post of Secondary Grade Teacher and he retired from service on superannuation on 28.02.2009. The said Government



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Order G.O.No.562 is applicable only to those who have rendered service continuously in the pay scale applicable to the respective post. But in the instant case, the service of the petitioner involved in two different scales of pay i.e. Lower and normal scale of pay applicable to the posts of Higher Grade Teacher and Secondary Grade Teacher. Therefore, the petitioner is not entitled for grant of bonus increment. The Government issued clarification in letter No.168 dated 11.10.2001 that it is not entitled for sanction of bonus incentive increment, computing the service rendered in the lower scale of pay with higher scale of pay. Even though the petitioner had completed 30 years of service in the same post, he is eligible for the higher scale of pay only on passing S.S.L.C. Public Examination. Before passing such examination, the petitioner was drawing his pay in the lower scale of pay. Thus, the learned Special Government Pleader would contend that the petitioner is not entitled for grant of one bonus increment as incentive and prayed to dismiss the writ petition.

6. This Court, considered the submissions made on either side and perused the materials available on record.



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7. As per G.O.No.562, Finance (Pay Cell) Department dated 28.09.1998, the Government directs that employees stagnating in a post beyond 30 years i.e., employees stagnating in the Special grade beyond 10 years be granted with one bonus increment as an incentive. The petitioner was originally appointed as Part Time Craft Teacher on 21.11.1971 and was regularised as Weaver Instructor in the regular vacancy on 18.12.1973 and continued to work in the same School from the date of appointment till his retirement on 28.02.2009. The post of Craft Teacher and Weaver Teacher is one and the same. The petitioner was given selection grade on 14.10.1987 and special grade on 14.10.1997 and worked in the same post as Weaving Instructor till his retirement. The Assistant Educational Officer passed an order on 18.12.2007 based on Audit objection that grant of selection grade to the petitioner from 14.10.1987 is not correct as the petitioner had passed S.S.L.C. only in January 2008. Aggrieved by the said order, the petitioner filed W.P.No.3080 of 2008 before this Court and this Court, by order dated 06.02.2008, disposed the said writ petition directing the Assistant Educational Officer to consider the petitioner's case on the basis of his own



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communication sent in October 1996 wherein he has stated that the grant of special grade to the petitioner from 14.10.1987 is correct. Based on the order passed in the said writ petition, the Government overruled the audit objection and confirmed the grant of special grade to the petitioner from 14.10.1987 and selection grade from 14.10.1997. However, bonus in terms of G.O.No.562 was not granted. The 5th respondent has clearly stated in their letter dated 29.05.2012 and 16.12.2012 that the petitioner is eligible for bonus and increment. The petitioner has completed 30 years of continuous service in the same post and he was stagnated in the special grade beyond 10 years and thus, he is entitled for grant of one bonus increment as an incentive.

8. In view of the above, this Court is of the view that the petitioner is entitled for one bonus increment as an incentive in terms of G.O.No.562, Finance (Pay Cell) Department dated 28.09.1998. Therefore, the orders passed by the 2nd respondent dated 25.09.2012 and 03.01.2013 are set aside and the respondents are directed to refix the pay and pension of the petitioner with effect from 14.10.2007 by granting one bonus increment as an incentive in terms of G.O.No.562, Finance (Pay Cell) Department dated 28.09.1998 as



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per the revised proposal sent by the 5th respondent in his reference No.491/A1/2012 dated 02.05.2012 and 16.11.2012 and settle the outstanding amount to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. Accordingly, the Writ Petition is allowed. No costs.

06 .01.2023

Index :Yes/No
Speaking/Non-speaking order
vsi

To

1. The Government of Tamil Nadu,
Represented by its Principal Secretary,
School Education Department,
Fort St.George,
Chennai-600009.
2. The Principal Accountant General,
Office of the Principal Accountant General
(Accounts & Entitlements) Tamil Nadu,
No.361, Anna Salai, Chennai-600 018.
3. The Director of Elementary School Education,
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J.NISHA BANU, J.

(vsi)

Pre-delivery order in
W.P.No.28549 of 2013

06.01.2023