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W.P.Nos.34328 to 34345 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.34328 to 34345 of 2013
and M.P.No.1 of 2014 (18 Nos)

W.P.No.34328 of 2013 :-

Rathna Kumari

...Petitioner

-Vs-

1. State of Tamil Nadu
Rep. by Secretary to Government,
Education Department,
Fort St. George,
Chennai – 600 009.
2. The Director of School Education,
DPI Complex,
Chennai – 600 006.
3. The Accountant General (A & E)
Accountant General Office,
No.361, Anna Salai,
Chennai – 600 018.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the first and second respondents to sanction the difference of arrears of scale of pay from September 1997 to February 2004 along with interest within a date fixed by this Court.



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In all W.Ps.

For Petitioner : Mr.A.R.Nixon
For Respondents
For R1 & R2 : Mr.S.Silambanan
Additional Advocate General,
Assisted by Mr.Yogesh Kannadasan
Special Government Pleader

For R3 : Mr.V.Murali

COMMON ORDER

All these writ petitions have been filed for direction directing the respondent to consider the petitioners' request as recommended by the Assistant Elementary Educational Officer, Villupuram District.

2. All the petitioners/petitioners' husband were rendered service in the education department as Elementary School Headmaster. As per the government order in G.O.Ms.No.207 School Education Department dated 30.09.2008, the Assistant Elementary Educational Officer has sent a proposal by re-fixing the scale of pay of the retired elementary school headmaster and also awarded special grade pay. Therefore, they are also entitled for the special relief as per the proposal sent by the Assistant Elementary Educational Officer.

3. Heard the learned counsel appearing on either side and



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perused the materials placed before this Court.

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4. On perusal of counter filed by the second respondent revealed that after 01.06.1988, the post of primary school headmaster was made as a promotional post, in accordance with the seniority, in the posts of secondary grade teachers with effect from 01.06.1988. Therefore, there is no identical scale of pay between the secondary grade teacher and primary school headmaster. In the government order in G.O.Ms.No.238 School Education Department dated 26.06.1988, selection grade was allowed to BT Assistant by counting the services rendered in secondary grade teacher post.

5. Further as per the government order in G.O.Ms.No.38 School Education (G2) Department, dated 05.03.2001, the selection grade was allowed to the primary school headmasters, who were promoted after 01.06.1988 by counting the services rendered in the secondary grade selection grade post after 01.06.1988. As per the government order in G.O.Ms.No.207 School Education (G2) Department dated 30.09.2008, the petitioners/petitioners' husband had got the special grade. The secondary grade teachers who were promoted as primary



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school headmaster as on 01.06.1988, were given selection grade or special grade pay. Further the government passed another government order in G.O.Ms.No.160 dated 23.08.2005 and according to that G.O., the person those who retired as on 01.06.1988 as primary school headmaster are eligible to get the selection grade or special grade based on the re-fixation the revised pension can be sanctioned.

6. Whereas the case of the petitioners/petitioners' husband is that though their revised pension was sanctioned in the year 2009 after their retirement, they were entitled for the arrear of pay. However, the government after considering their case, granted selection grade or special grade and therefore, the government order has no retrospective effect. It is applicable from the date of issuance of the government order and there is no question of arrears of pay. Further, the recommendation proposal sent by the Assistant Elementary Educational Officer is clenching and stereotype that too it is an internal communication. It has no date and signature.

7. That apart, all the petitioners are getting family pension as



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per the Government Order in G.O.Ms.No.207 School Education dated 30.09.2008 and therefore, they are not entitled for any arrears by re-fixation of pay in accordance with the government order in G.O.Ms. No.207, dated 30.09.2008. Therefore the prayer sought for in all the writ petitions is devoid of merits and it is liable to be dismissed.

8. Accordingly, all the Writ Petitions are dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to cost.

31.07.2023

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order

rts

To

1. The Secretary to Government
State of Tamil Nadu
Education Department,
Fort St. George,
Chennai – 600 009.



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G.K.ILANTHIRAIYAN. J.

rts

2. The Director of School Education,
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3. The Accountant General (A & E)
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