



W.P.No.39775 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

W.P.No.39775 of 2015

and

M.P.Nos.1 of 2015

C.Dharmaraj

... Petitioner

vs

1. Office of the Principal Accountant General  
(Accounts & Entitlements), Tamil Nadu,  
represented by its Senior Accounts Officer/Pen 17,  
No.361, Anna Salai, Chennai - 600 018.
2. The Assistant Elementary Educational Officer,  
Udayanampatti,  
Thiruchuzhi Panchayat,  
Virudhunagar District.
3. The Headmaster,  
Panchayat Union Elementary School,  
Mattikaraipatty, Singapunari Union,  
Sivagangai District.

.... Respondents

Writ Petition filed under Article 226 of the Constitution to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent passed in letter No.Pen 17/III/11714720/Rn/15-16/ADK dated



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02.07.2015 and quash the same and consequently direct the respondents herein to revise the pay of the petitioner by extending the benefit of G.O.Ms.No.202, dated 24.09.2008 by granting the petitioner with special grade in the pay scale of Elementary School Headmaster with effect from 01.06.1988 and accordingly revise the pension admissible to the petitioner with all monetary benefits.

For Petitioner : Mrs.Shivani Sree S.V.  
for Mrs.Dakshayini Reddy  
For Respondents : Mr.V.Vijayshankar  
Standing Counsel for R1  
Mr.M.Rajendran,  
Addl.Govt.Pleader for R2 .

### ORDER

This writ petition has been filed by the petitioner challenging the order passed by the first respondent dated 02.07.2015, rejecting to revise pension and consequently, direct the respondents to revise the pay of the petitioner by extending the benefit of G.O.Ms.No.202 dated 24.09.2008 by granting the petitioner with special grade in the pay scale of Elementary School Headmaster with effect from 01.06.1988 and accordingly, revise the pension admissible to the petitioner with all monetary benefits.

2. i) The case of the petitioner is that he was originally appointed to the post of Secondary Grade Headmaster at Panchayat Union Elementary



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School, Mattikarapatti, Singampunari Union, Sivagangai District with effect from 14.12.1963 and worked as such till 27.07.1964. Subsequently, the petitioner worked as Elementary School Headmaster in S.Pudur Union w.e.f 01.08.1964 till 20.06.1966. Again, the petitioner was re-transferred to Singampunari Panchayat Union as Elementary School Headmaster w.e.f. 21.06.1966 till 02.10.1968. The petitioner was again re-transferred to S.Pudur Panchayat Union and worked as Elementary School Headmaster w.e.f. 03.10.1968 upto 02.07.1974. Subsequently, he worked as Secondary Grade Teacher w.e.f. 02.07.1974 till 11.08.1976 in the same S.Pudur Panchayat Union. Subsequently, the petitioner was transferred to Thiruchozhi Panchayat Union as Secondary Grade Teacher w.e.f. 12.08.1976 till 07.01.1993. Subsequently, again he was promoted to the post of Elementary School Headmaster and worked as such w.e.f. 08.01.1993 upto 31.12.1998 on which date, he attained superannuation.

ii) Prior to 01.06.1988, the pay scale of Elementary School Headmaster and Secondary Grade Teacher is one and the same. When the petitioner was appointed as Secondary Grade Teacher w.e.f. 02.07.1974, he never protested such appointment. After his retirement, the proposals were sent for pensionary benefits. In the meanwhile, the Government issued



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G.O.Ms.No.234, whereby the Government extended Selection Grade/Special Grade after completion of 10 years and 20 years of service. The petitioner was granted with Special Grade with effect from 08.01.1993 i.e., the date on which, the petitioner was again made as Elementary School Headmaster. The respondent has not granted the petitioner with Selection Grade/Special Grade as per G.O.Ms.No.202 dated 24.09.2008. As per G.O.Ms.No.202, dated 24.09.2008, the petitioner is entitled to special grade in the pay scale of Elementary School Headmaster with effect from 01.06.1988 by taking into consideration, the entire period of service rendered by the petitioner prior to 01.06.1988 for fixation of the special grade in the pay scale of Elementary School Headmaster. But the respondents instead of extending the said benefit from 01.06.1988 have granted the special grade only w.e.f. 08.01.1993 i.e., the date on which the petitioner was, for the second time promoted to the post of Elementary School Headmaster.

iii) The petitioner made representation to the 2nd and 3rd respondents and proposal for pension for grant of special grade w.e.f. 01.06.1988 was forwarded to the 1st respondent by the 2nd respondent. The 1st respondent originally vide proceedings dated 07.05.2014, sought for the service register along with revised pension proposals. Accordingly, the same was forwarded



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to the 1st respondent by the 2nd respondent. However, the 1st respondent rejected the same. Hence, the present writ petition.

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

4. i) Learned counsel for the petitioner would submit that the impugned order is against G.O.Ms.No.202 dated 24.09.2008, whereby the Government has extended the benefit of the said Government Order to those who have held the post of Elementary School Headmaster prior to 01.06.1988 and have been subsequently transferred as Secondary Grade Teacher and again, held the post of Elementary School Headmaster. So far as the petitioner is concerned, the petitioner held the post of Elementary School Headmaster with effect from 14.12.1963 to 01.07.1974 and was posted as Secondary Grade Teacher with effect from 02.07.1974 till 07.01.1993. Again, the petitioner was appointed as Elementary School Headmaster w.e.f. 08.01.1993 and hence, he is fully eligible for extension of the benefit under G.O.Ms.No.202 dated 24.09.2008.



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ii) Learned counsel would further submit that the first respondent ought to have granted the petitioner with selection grade and special grade with effect from 01.06.1988 instead of 08.01.1993. The Government issued the said Government order itself taking into account the fact that prior to 01.06.1988 the pay scale of the Elementary School Headmaster and Secondary grade Teacher in Panchayat Union School is one and the same and hence, the Secondary Grade Teacher did not protest the post as Secondary Grade Teacher at that relevant point of time and hence, should not lose the benefit of the revised pay scale which was only introduced with effect from 01.06.1988. If the petitioner is not granted the benefit of G.O.Ms.No.202, he will lose the entire service as Elementary School Headmaster of over 10 years. Hence, he would pray to allow the writ petition.

5. Per contra, the learned counsel appearing for the 1st respondent would submit that the petitioner has been transferred while serving as Primary School Headmaster from one Union to another i.e., from Singampuneri to S.Pudur on two occasions i.e., on 01.08.1964 and on 03.10.1968 and from S.Pudur to Singampuneri on 21.06.1966 but has



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joined in the post of Headmaster itself and not as Secondary Grade Teacher.

Similarly, he has been transferred from one Union to another i.e., from S.Pudur to Tiruchuzhi on 12.08.1976 while serving as Secondary Grade Teacher, but has joined as Secondary Grade Teacher itself. On 03.07.1974, he has been transferred from the post of Headmaster to Secondary Grade Teacher but within the same Panchayat Union i.e., S.Pudur. Thus, the primary condition required for the benefit under G.O.No.202 being not fulfilled, this respondent denied to revise his pensionary benefits under G.O.202 in letter dated 02.07.2015.

6. Learned Additional Government Pleader appearing for the respondents would submit that on the basis of the representation sent by the petitioner, proposal for pension by granting special grade with effect from 01.06.1988 was forwarded to the 1st respondent by the 2nd respondent. Originally, the 1st respondent vide proceedings dated 07.05.2014, addressed a letter to the petitioner stating that the petitioner was eligible for extension of G.O.Ms.No.202 dated 24.09.2008 and further sought for the service register along with revised pension proposals of the petitioner. Accordingly, the service register was forwarded to the 1st respondent by the



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2nd respondent. However, the 1st respondent rejected the claim of the petitioner stating that the petitioner was transferred within the same post i.e., from Headmaster to Headmaster to Secondary Grade Assistant within the same Union on 02.07.1974 and from 12.08.1976 from one Union to another Union within the same post i.e., Secondary Grade Assistant and hence, he is not eligible for the benefit under G.O.Ms.No.202.

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

8. Insofar as the benefits under the Government Order in G.O.(Ms).No. 202 is concerned, the said issue is no more *res integra* as the same has been decided by this Court in *T.Joseph and others Vs. The State of Tamil Nadu rep. By its Secretary to Government, School Education Department, Fort St. George, Chennai-9*, in Writ Petition Nos.23975 to 23980 of 2012, dated 04.09.2012. In that case in paragraph Nos.4 and 5, this Court has held as follows:

*“4.In my considered opinion, the orders passed by the Madurai Bench of this Court in W.P.No.10397 of 2009 dated*



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*09.03.2010 and the orders passed by this Court in a batch of writ petitions in W.P.No.28902/2010 and etc., batch squarely cover the cases of these petitioners as well. There is no controversy before this Court that these petitioners worked as Primary School Headmasters/Headmistresses which was then kept on par with the Secondary Grade Teachers. That post of Primary School Headmaster is kept in high pedestal in the matter of scale of pay only by the implementation of V Pay Commission on 01.06.1988. It is only by having taken note of this fact, the Tribunal as well as this Court have directed that for no fault of those teachers who were transferred from the post of Primary School Headmasters/Headmistresses to the post of Secondary Grade Teachers, they should not be allowed to suffer monetary loss. It was, in those cases, the Government, also, issued G.O.Ms.No.202, School Education Department, dated 24.09.2008, So far as the G.O.Ms.No. 202 is concerned, it is irrelevant as to whether the transfer from the post of Primary School Headmaster to the post of Secondary Grade Teacher was made on his own volition or on administrative grounds. Similarly, it is immaterial as to whether such transfer was effected prior to 01.06.1988 or subsequently. In view of all the above, I am of the firm view that the petitioners are entitled for the benefit of G.O.Ms.No.202, School Education Department, dated*



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*24.09.2008 and the contrary orders which are impugned in these writ petitions are liable to be quashed.*

*5.In the result, the writ petitions are allowed and the impugned orders are set aside and the respondents are directed to extend the benefit of G.O.Ms.No.202, School Education Department, dated 24.09.2008 to the petitioners herein also. In any event, consequential orders shall be passed by the respondents within a period of three months from the date of receipt of a copy of this order.*

9. The aforesaid judgment would squarely apply to the present facts of the case. G.O.Ms.No.202 dated 24.09.2008 was issued taking into consideration that prior to 01.06.1988 the post of Elementary school Headmaster was not a promotion post and taking into consideration the fact that the pay scale of Elementary School Headmaster and Secondary Grade Teacher were one and the same. Only on such premise, the said Government Order has been issued by considering the fact that the individuals like the petitioner who were working as Elementary School Headmasters did not protest for being posted as Secondary Grade Teachers prior to 01.06.1988 as there was no difference in salary. In the instant case, the petitioner held the post of Elementary School Headmaster with effect from 14.12.1963 to



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01.07.1974 and was posted as Secondary Grade Teacher with effect from 02.07.1974 to 07.1.1993. Again, the petitioner was appointed as Elementary School Headmaster with effect from 08.01.1993 and thus, he is fully eligible for extension of the benefit under G.O.Ms.No.202 dated 24.09.2008. Therefore, this Court is of the opinion that the order passed by the 1st respondent has to be set aside.

10. In the result, the Writ Petition is allowed and the impugned order dated 02.07.2015 is set aside and the respondents are directed to extend the benefit of G.O.Ms.No.202, School Education Department, dated 24.09.2008 to the petitioner herein by granting the petitioner with special grade in the pay scale of Elementary School Headmaster with effect from 01.06.1988 and accordingly, revise the pension admissible to the petitioner with all monetary benefits within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

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



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To

1. Office of the Principal Accountant General  
(Accounts & Entitlements), Tamil Nadu,  
represented by its Senior Accounts Officer/Pen 17,  
No.361, Anna Salai, Chennai - 600 018.
2. The Assistant Elementary Educational Officer,  
Udayanampatti,  
Thiruchuzhi Panchayat,  
Virudhunagar District.
3. The Headmaster,  
Panchayat Union Elementary School,  
Mattikaraipatty, Singapunari Union,  
Sivagangai District.



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J.NISHA BANU,J.

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