



Writ Petition No.5661 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2023

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THE HONOURABLE DR.JUSTICE D.NAGARJUN

Writ Petition No.5661 of 2015

S.Boodevi

..Petitioner

vs.

1.The Director of Elementary Education,
DPI Campus,
College Road,
Chennai-6

2.The District Educational Officer,
Thiruvallur District,

3.The Assistant Elementary Educational Officer,
Tiruvalangadu,
Thiruvallur District.

4.The Headmistress,
Thiruvalangadu Panchayat Union School,
Tiruvalangadu Panchayat Union,
Thiruvallur District- 631 210

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 3rd respondent in Na.Ka.No.644/A1/2012 dated 10.12.2012 in sofar as the denial of arrears of salary is concerned and quash the same and direct the respondents to pay the arrears of salary of the petitioner and revised pension.



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For Petitioner : Mr.C.Selvaraj, SC for
M/s.C.S.Associates.

For Respondents : M.Jayanthi, AGP

ORDER

This Writ Petition has been filed seeking for issuance of a Certiorarified Mandamus, to call for the records pertaining to the order passed by the 3rd respondent in Na.Ka.No.644/A1/2012 dated 10.12.2012 insofar as the denial of arrears of salary is concerned and quash the same and direct the respondents to pay the arrears of salary of the petitioner and revised pension.

2.The facts in brief as per the affidavit enclosed to the petition are as under:

(i)The petitioner joined as Secondary Grade Teacher on 23.11.1978 in the 4th respondent school. She was given Selection Grade on 23.11.1988 and later promoted as Headmistress of Elementary School on 24.07.1998. The post of Elementary School Headmistress and the Secondary Grade Teacher were inter-transferable inasmuch as both the posts were carrying



identical scales of pay. The V Pay Commission fixed separate pay to the post of Headmistress of Elementary School. The Government has implemented the recommendations of the V Pay Commission and issued G.O. dated 29.07.1989 giving effect from 01.06.1988. In the meanwhile, the persons who worked as Headmistress of the Elementary School were transferred again as Secondary Grade Teachers, thereby, the juniors started getting more salary. The Government issued orders directing to count the service of the Headmistress of the Elementary School prior to and after 01.06.1988 and sanction Selection Grade and Special Grade in the cadre of Elementary School Headmistress.

(ii)As far as some of the senior teachers are concerned, who got lesser scales of pay in the cadre of Headmistress of Elementary Schools, have approached the Tribunal and obtained the order from the Tribunal to count the entire length of service, whether they held the post of Secondary Grade Teacher or Headmistress of Elementary School prior to 01.06.1988 and sanction Special Grade and Section Grade and the same was also confirmed by the Division Bench of this Court and as against the same, Special Leave Petition was filed by the Government and the same was dismissed,



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confirming the order passed by the Division Bench of this Court. The Government has accepted the same and issued the order in G.O.Ms.No.234, School Education Department dated 10.09.2009. However, the said order was restricted only to the persons, who approached the Court and some of the similarly placed persons again approached this Court and filed Writ Petitions and some of them came to be allowed.

(iii)The Government has issued general orders to consider the claim of fixation counting the entire length of service whether in the cadre of Secondary Grade Teacher or in the cadre of Elementary School Headmistress and directed to sanction Selection Grade to Special Grade for those who have been promoted as Headmistress after 01.06.1988. The Government also issued orders in G.O.Ms.No.207, School Education Department dated 30.09.2008 to that effect. Accordingly, the petitioner's scale was revised and fixation was given in the cadre of Elementary School Headmistress counting the entire length of service. However, the arrears were denied referring to G.O.Ms.No.207, School Education Department dated 30.09.2008. Therefore, the petitioner sought for suitable directions in this Writ Petition.



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3. According to the learned counsel for the petitioner, no where in G.O.Ms.No.207, School Education Department dated 30.09.2008, the arrears of salary have been denied. However, by way of impugned order, the third respondent denied the arrears as if the arrears were ordered to be denied under G.O.Ms.No.207, School Education Department dated 30.09.2008. It is also submitted that the denial of arrears under G.O.Ms.No.207, School Education Department dated 30.09.2008. is discriminated and not sustainable.

4. The third respondent has filed a detailed counter stating that since the Government has issued G.O.Ms.No.207, School Education Department dated 30.09.2008 allowing the revised pay fixation for pensionary benefits as per the direction of this Court, the claim of the petitioner to sanction arrears of pay and allowances payable to her in lieu of her revised pay fixation is not feasible for compliance. Further, if the claim of the petitioner is considered and arrears of pay and allowances were sanctioned, it would open flood gates for similarly placed persons and it would cause huge financial burden to the State exchequer.



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5. The learned counsel for the petitioner has filed a copy of G.O.Ms.No.207, School Education Department dated 30.09.2008 to demonstrate that the petitioner is entitled for the relief as sought for in this Writ Petition.

6.The learned Additional Government Pleader appearing for the respondents has submitted that as per para no.7 of the said Government Order, it is only directed that the revised Pensionary benefits be alone granted and not arrears of pay. She has also relied upon a judgment dated 13.07.2023 rendered by a Division Bench of this Court in WA.No.2857 of 2019 & a batch of Writ Appeals, wherein, while dealing with the similar issue, the Division Bench of this Court has observed in paragraphs 21 and 22, which reads as under:

“21.Therefore the issue has been settled and concluded where those teachers who were initially working as Secondary Grade Teachers and subsequently earned promotion as Primary School Headmaster after 01.06.1988 are entitled to get the benefit of Selection Grade and Special Grade and accordingly the pay has to be necessarily revised, therefore based on the revised pay what are all the arrears of pay shall be paid to them and correspondingly their pension also to be revised and after



revision of pension, the arrears of pension also shall be paid to them and they are entitled to continuously receive the same till their lifetime.

“22. Insofar as this benefit conferred on them is concerned, absolutely there can be any quarrel as the issue raised, as stated supra, has been settled. Therefore following the earlier judgments passed by this Court including the latest one of the Co-ordinate Bench dated 05.07.2023, we are inclined to dispose of these writ appeals as well as the writ petitions to the following effect:

(i) That the Writ Appeals in W.A.Nos.2857 of 2019, 1038 of 2017, 944 of 2017, 1663 of 2018, 1766 of 2018, 671 of 2018, 688 of 2018, 704 of 2018, 3738 of 2019, 3166 of 2019 and 957 of 2019 are deserved to be dismissed, accordingly they are dismissed and the writ petitions in W.P.Nos.25680 of 2011, 8962 and 8963 of 2011, 21852 of 2014, 15496 of 2014, 2112 of 2015, 22175, 22176, 22177, 22178, 22179, 22180, 22181, 22182 of 2015, 24456 of 2015, 12990 of 2016 and 22176 of 2021 are allowed.

(ii) As a sequel, the respective retired Teachers who earned the promotion as Primary School Headmasters after 01.06.1988 are entitled to get the benefit of salary dues as well as pension dues by way of arrears and that shall be calculated and be paid to the respective retired Teachers/Primary School Headmasters by the appellant Department within a period of three months from the date of receipt of a copy of this judgment.



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7. In view of the above, this Court is of the view that the above judgment will hold good to the present Writ Petition also. Accordingly, the petitioner is also entitled to get benefit of salary dues as well as pension dues by way of arrears as directed by the Division Bench of this Court in the above referred to judgment.

8. Accordingly, this Writ Petition is disposed of directing the respondents to extend the benefit of salary dues as well as pension dues by way of arrears to the petitioner as directed by the Division Bench of this Court in WA.No.2857 of 2019 & a batch of Writ Appeals dated 13.07.2023 within a period of four weeks from the date of receipt of a copy of this order. No costs.

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Index : Yes/No
Speaking order: Yes/No
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To

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Dr.D. NAGARJUN, J

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