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W.A.No.37 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2023

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.A.No.37 of 2018
and C.M.P.No.286 of 2018

- 1 The Government Of Tamilnadu
Rep.by Secretary To The Government School
Education Department, Fort St. George
Chennai - 09.
- 2 The Director Of Elementary
Education, College Road, Chennai - 06.
- 3 The District Elementary
Educational Officer, Ariyalur District
Ariyalur.
- 4 The Assistant Elementary
Educational Officer, Andimadam Panchayat
Union, Andimadam, Ariyalur District.
- 5 The Addl. Assistant Elementary
Educational Officer, Aandimadam
Panchayat Union, Andimadam, Ariyalur Dt.

.... Appellants

Vs

- 1 K Ganesan
- 2 K Ramalingam
- 3 B Pitchai
- 4 V Chinnasamy
- 5 P Pennarasi

.... Respondents



W.A.No.37 of 2015

Prayer : Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 27.04.2015 in W.P.No.12564 of 2015.

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For Appellants : Mr.N.Murali
Government Advocate
For Respondents : Mr.R.Saseetharan

J U D G M E N T

(Judgment of the Court was delivered by R. SURESH KUMAR, J.)

The respondents were initially appointed as Secondary Grade Teachers in the early 1970's at Panchayat Union Elementary Schools at various places. After long years of service, they had been given promotion as Primary School Headmasters sometime in 1988.

2. In this context, it is to be noted that 01.06.1988, since was the cut off date, redesignation was made and the pay has been re-structured for various posts like Secondary Grade Teachers and Primary School Headmasters. In respect of these private respondents are concerned, since they retired from service after getting promotion after the cut off date ie., 01.06.1988, selection grade and special grade was not given by taking into account their earlier service as Secondary Grade Teachers.

3. Had the said service period been considered, certainly these people would have earned higher pay by conferring the status of selection grade and special grade.



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However, since they have been promoted in the meanwhile, the earlier service had not been taken into account for the purpose of conferring selection grade and special grade. With the result, there has been a lesser pay fixed and correspondingly, pension also had been reduced.

4. Therefore, in order to set right this anomaly, the respondent Teachers approached this Court and filed writ petition in W.P.No.12564 of 2015. Similar writ petitions in W.P.Nos.12563 and 12565 of 2015 were filed by other teachers similarly placed like the respondents. All the writ petitions were taken up together and the writ Court passed a common order on 27.04.2015.

5. In the said order the learned Judge, having considered the earlier order passed on the very same issue in W.P.No.25001 of 2012, was pleased to allow those writ petitions also. Aggrieved over the said order passed by the writ Court, the present appeal has been preferred.

6. Heard Mr.N.Murali, learned counsel for the appellants and Mr.R.Saseetharan, learned counsel for the respondents.

7. We have noticed that in fact the learned Judge, having taken note of the earlier order passed by this Court in W.P.No.25001 of 2012, has allowed those writ petitions. If we look at the earlier order that was passed in W.P.No.25001 of 2012 reported in **2015**



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(5) **Law Weekly 140** in the matter of **S.Chandrasekaran and Others -vs- The Government of Tamil Nadu, rep.by Secretary to the Government, School Education Department and Others**, a detailed discussion had been taken, where the issue has been discussed threadbare and ultimately the writ petitions filed by the persons similarly placed like the respondents herein, were allowed by the learned Judge.

8. In the said judgment in **S.Chandrasekaran's** case, the learned Judge has taken note of the fact that already similar issue was considered in W.P.No.20706 of 2010, where a batch of writ petitions were allowed by order dated 05.08.2011 and this factor has been taken into account by the learned Judge in Para 27 of the said judgment in **S.Chandrasekaran's** case, which reads thus,

" 27. This Court allowed the aforesaid writ petitions in W.P.Nos.20706 of 2010 etc., batch on 05.08.2011 and quashed the proceeding of the Director of Elementary Education dated 23.07.2010 and held that the persons, who were promoted as Primary School Headmasters after 01.06.1988 are entitled to receive monetary benefits pursuant to their Selection Grade / Special Grade pay fixation of Primary School Headmaster, besides the monetary benefit in respect of retiral benefits. Para 6 and a passage in Para 7 of the said judgment are extracted hereunder:

"6. In all these matters, the petitioners had served as Primary School Headmasters and retired from service. It is seen from the perusal of the G.O.Ms.No.207, School Education Department, dated 30.09.2008 that for the



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persons, who have been appointed as Primary School Headmasters after 01.06.1988, their pay scales have to be fixed pursuant to the fixation of pay in the selection and special grade. The said Headmasters are entitled to claim retiral monetary benefits and benefits of fixation of pay.

7. Therefore, this Court is of the considered view that the impugned orders of the Director of Elementary Education, Chennai, rejecting the claim of the petitioners that they are entitled only to receive the monetary benefits in respect of arrears of pension alone are unsustainable."

9. More writ petitions filed on the same set of facts, having been considered, were allowed by the writ Court. The relevant portion of the findings in Paras 31 and 32 of the said judgment reads thus,

" 31. In view of the order dated 05.08.2011 in W.P.No.20706 of 2010 etc., batch quashing the proceeding dated 23.07.2010 of the Director of the Elementary Education with a consequential direction to grant monetary benefits pursuant to the fixation of Selection Grade and Special Grade pay of Primary School Headmaster by counting the service of Secondary Grade Teacher also, besides paying the monetary benefits in respect of retiral benefits, this Writ petition has to be allowed, particularly, when the aforesaid order dated 05.08.2011 in W.P.No.20706 of 2010 etc., batch attained finality.



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32. Furthermore, it is relevant to note that a learned Single Judge of this Court following the order dated 05.08.2011 in W.P.No.20706 of 2010 etc., batch, has also passed the order dated 16.08.2013 in W.P.No.13147 of 2011 quashing the proceeding dated 23.07.2010 of the Director of Elementary Education and issuing a consequential direction to grant monetary benefits pursuant to the fixation of selection grade and special grade in the post of Primary School Headmaster by counting the service of the Secondary Grade Teacher, in paragraph 4 of the order dated 16.08.2013 in W.P.No.13147 of 2011, the learned Single Judge relied on the order of this Court dated 05.08.2011 in W.P.No.20706 of 2010 etc., batch, and extracted paras 6 and 7 of the order dated 05.08.2011 in W.P.No.20706 of 2010 etc., batch, and extracted paras 6 and 7 of the order dated 05.08.2011 in W.P.No.20706 of 2010 etc., batch, which is also extracted by me in paragraph 27 of this judgment and in paragraph 5 of the order dated 16.08.2013 in W.P.No.13147 of 2011, the writ petition was allowed and the said paragraph 5 is also extracted hereunder:

5. Thus, in the light of the above quoted order, the petitioner is entitled to succeed and accordingly the writ petition is allowed and the impugned order is quashed and the respondents are directed to consider the claim of the petitioner and grant the arrears of pay, as sought for by the petitioner. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order."

10. It is to be noted that, as against the said judgment made in **S.Chandrasekaran's** case, writ appeal had been filed by the appellant Department in



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W.A.No.1734 of 2015 and the said writ appeal came to be dismissed by a Division Bench of this Court on the ground of default on 01.12.2016, against which no steps have been taken by the appellant Department so far and this factor is confirmed on verifying the case status from the website of this Court.

11. It is further to be noted that, insofar as the earlier order passed by the writ court in W.P.No.20706 of 2010 dated 05.08.2011 is concerned, no intra court appeal had been filed by the Department and this has been recorded by the learned Judge in **S.Chandrasekaran's** case that the judgment in W.P.No.20706 of 2010 etc., batch has become final.

12. When that being the factual matrix, absolutely there is no error in allowing the writ petitions filed by these respondent teachers through the impugned order. Hence, it does not warrant any interference from us. Accordingly, this writ appeal fails and it is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

(R.S.K.,J.) (V.L.N.J.,)
05.07.2023

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