



WEB COPY



W.A.No.3272 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2023

CORAM :

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

W.A.No.3272 of 2019

- 1.E.Ganesan
- 2.P.Hajamohideen
- 3.S.Chithiravelu
- 4.R.Natarajan
- 5.P.M.Subramaniam
- 6.S.Adaikalasamy
- 7.A.Antonisamy
- 8.M.Vadivel
- 9.D.Kamalam (Family Pensioner)
- 10.D.Ramasamy
- 11.K.Palanisamy
- 12.G.Karunakaran
- 13.V.Santhanakrishnan
- 14.S.Krishnamurthy
- 15.L.Ramaiyan
- 16.K.Vanaja
- 17.K.Subbaiyan (Family Pensioner)
- 18.M.Rajangam
- 19.Saraswathi (Family Pensioner)
- 20.J.Chandra

... Appellants

-Vs-

- 1.The State of Tamil Nadu
Rep.by its Secretary to Government
Finance (Pay Cell) Department
Secretariat, Chennai-9.
- 2.The State of Tamil Nadu
Rep.by its Secretary to Government
Education Department, Secretariat
Chennai-600 009.



W.A.No.3272 of 2019

3.The Director of School Education
Higher Secondary, DPI Compound
College Road, Chennai 600006.

4.The Chief Educational Officer
Nagapattinam District, Nagapattinam.

5.The Chief Educational Officer
Thiruvarur District, Thiruvarur.

6.The Chief Educational Officer
Thanjavur District, Thanjavur.

... Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order in W.P.No.25118 of 2018 dated 20.03.2019.

For Appellants : Mr.R.Singaravelan, Senior Counsel
for M/s.M.Rajamani
For Respondents : Mr.K.V.Sajeev Kumar
Special Government Pleader

J U D G M E N T

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

This intra court appeal has been directed against the order passed by the writ Court dated 20.03.2019 made in W.P.No.25118 of 2018.

2. In fact along with the said writ petition, some more writ petitions were heard and a common order was passed by the Writ Court.



W.A.No.3272 of 2019

3. The issue before the Writ Court was that the benefit under G.O.Ms.No.216, Finance Department dated 22.03.1993 has to be extended to the writ petitioners also. When that issue came up for consideration before the learned Judge, the learned Judge has taken into account the earlier Full Bench judgment of this Court in Revision Application in R.A.No.227 of 2015 etc., batch in W.A.No.352 of 2014, where by an order dated 09.12.2016 a Full Bench of this Court has fixed a cut off date as 09.12.2016, that means, those who approached this Court and filed writ petitions on or before 09.12.2016 alone would be entitled to get the benefit under the Government Order referred to above and in this context, the writ petitions which have been filed and were in the SR stage also were taken into account. However, beyond 09.12.2016 if any one has come before this Court by filing writ petitions seeking the same benefit, such kind of writ petitions need not be entertained.

4. Taking clue from the said order passed by the Full Bench especially in Para 38(4) of the Full Bench judgment, which is reported in **2017(1) C.W.C.561** in the matter of **Government of Tamil Nadu -vs- G.Eswaran** dated 09.12.2016, the learned Judge has come to a conclusion that, since this writ petition was filed in the year 2018 and other writ petitions were filed in the year 2019, the petitioners in those writ petitions are not entitled to seek the benefit which has been extended to similarly placed persons, who approached this Court on or before 09.12.2016 and accordingly all those writ petitions were rejected through the impugned common order passed by the writ Court.



W.A.No.3272 of 2019

WEB COPY

5. Heard Mr.R.Singaravelan learned Senior Counsel appearing for the appellants and Mr.K.V.Sajeev Kumar, learned Special Government Pleader appearing for the respondents.

6. It has been brought to our notice that, it is not the first time these appellants / petitioners approached this Court by filing writ petitions in the year 2018. In fact, they approached this Court well in advance ie., in the year 2015, in some cases 2014 as well as 2011. Twenty such writ petitions had been filed in the year 2015, 2014 and 2011. The writ petitioners in those writ petitions are the petitioners in the present writ petition and this factor in fact has been brought to the notice of the learned single Judge in the affidavit filed in support of the writ petition in W.P.No.25118 of 2018.

7. However, this aspect has not been taken into account by the learned Judge and the learned Judge has proceeded as if that the petitioners in the present writ petition had approached this Court first time only in the year 2018, which is beyond the cut off date fixed by the Full Bench judgment of this Court ie., 09.12.2016 and therefore the benefit sought for has been denied.

8. However, factually the petitioners had already approached this Court in the year 2015, where substantial disposals were given through the second round of



W.A.No.3272 of 2019

litigation. Therefore, it can be treated as a continuous litigation, as the cause of action was also continuous in nature. It cannot be treated as those writ petitioners had come before this Court first time only in the year 2018 or 2019, as the case may be, ie., well after the cut off date of 09.12.2016.

9. In view of the said factual error, we feel that the order impugned passed in the writ petition has to be interfered with. Resultantly, this appeal is allowed. No costs. Consequently, the benefit that has already been extended by virtue of G.O.Ms.No.216 dated 22.03.1993 to all similarly placed persons like the writ petitioners / appellants shall be extended to the appellants herein in terms of the judgment of the Full Bench dated 09.12.2016. The needful as indicated above shall be undertaken by the respondents within a period of twelve (12) weeks from the date of receipt of a copy of this order.

(R.S.K.,J..) (C.K.,J.)
11.10.2023

Index : Yes/No
NCS : Yes/No
KST



W.A.No.3272 of 2019

To

- 1.The Secretary to Government
Finance (Pay Cell) Department
Secretariat, Chennai-9.
- 2.The Secretary to Government
Education Department, Secretariat
Chennai-600 009.
- 3.The Director of School Education
Higher Secondary, DPI Compound
College Road, Chennai 600006.
- 4.The Chief Educational Officer
Nagapattinam District, Nagapattinam.
- 5.The Chief Educational Officer
Thiruvavarur District, Thiruvavarur.
- 6.The Chief Educational Officer
Thanjavur District, Thanjavur.



WEB COPY



W.A.No.3272 of 2019

R.SURESH KUMAR, J.
and
C.KUMARAPPAN, J.

KST

W.A.No. 3272 of 2019

11.10.2023