



Writ Petition No.19855 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2023

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition No.19855 of 2017

A.Rajendran
S/o.Arunachala Mudaliar

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep.by its Principal Secretary to Government,
Finance Pay Cell Department,
Secretariat, Fort St.George,
Chennai – 600 009.

2. The Chief Educational Officer,
Thiruvannamalai District,
Thiruvannamalai.

3. The Principal Accountant General (A&E),
DMS Campus, Teynampet,
Chennai – 600 006.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Mandamus directing the second respondent to



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resubmit the pension proposal with sanctioning of additional increment equal to 3% of Basic Pay and Grade Pay towards Selection Grade in the post of Higher Secondary School Headmaster with effect from 01.01.2008 as per G.O.Ms.No.237, Finance (Pay Cell) Department dated 22.07.2013 and consequently direct the 3rd respondent to approve and sanction the revision of pension on that basis along with interest for belated payment, within a time frame to be fixed by this Court.

For Petitioner : Mr.S.Nedunchezhiyan
For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader
for R1 and R2
Mrs.Hema Murali Krishnan
for R3

ORDER

This Writ Petition has been filed seeking for a mandamus to direct the second respondent to resubmit the pension proposal sanctioning additional increment equal to 3% of basic pay and grade pay towards selection grade in the post of Higher Secondary School Headmaster with effect from 01.01.2008 as per G.O.Ms.No.237, Finance (Pay Cell) Department dated 22.07.2013 and consequently, direct the third respondent to approve and



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sanction the revised pension along with interest for belated payment.

2. The case of the writ petitioner in a nutshell is as follows:

2.1. The petitioner was initially appointed as PG Assistant (Maths) in Higher Secondary Education on 16.11.1981. The petitioner was promoted to the post of Headmaster of Higher Secondary School on 06.09.2007. While so, the petitioner attained superannuation on 31.05.2015. The revised scale of pay has been implemented for the Government servants in the State of Tamil Nadu with effect from 01.01.2006 following Pay Commission Recommendations issued vide G.O.Ms.No.234 Finance (Pay Cell) Department dated 01.06.2009. As per revised scale of pay which was implemented with effect from 01.01.2006, no separate scale of pay has been provided for selection grade / special grade but one increment equal to 3% of basic pay including grade pay in the same pay band is allowed to the employees in the selection grade / special grade. Accordingly, as per G.O.Ms.No.234, pay to the employees who have moved to selection grade / special grade on or after 01.01.2006 shall be fixed on the date of award of



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selection grade / special grade by granting the benefit of one increment equal to 3% of basic pay including the grade pay in the same pay band in the revised scale of pay.

2.2. In this regard, several representations have been submitted by the Associations before Pay Grievance Redressal Cell to revive the claim of separate scale of pay to selection grade / special grade holders as in the previous pay commission periods. The Pay Grievance Redressal Cell, after considering the long standing service rendered by the employees, has recommended to grant an additional increment benefit over and above the one increment already allowed which is equivalent to 3% + 3% of basic pay for award of selection grade / special grade in the revised scale of pay. On that basis, the Government issued orders vide G.O.Ms.No.237 Finance (Pay Cell) Department dated 22.07.2013 with directions that an additional increment benefit (over and above existing one increment benefit) equivalent to 3% + 3% of basic pay shall be granted to the employees on award of selection grade / special grade in the revised scale of pay implemented with



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effect from 01.01.2006. On completion of 10 years of service in the same scale of pay, the petitioner was granted with one increment equal to 3% of basic pay in lieu of selection grade. Pursuant to G.O.Ms.No.237, the petitioner is entitled for additional 3% of basic pay on award of selection grade in the post of Higher Secondary School Headmaster with effect from 01.01.2008 including monetary benefits from 01.04.2013 but the same was not granted to the petitioner till the date of his retirement.

2.3. While so, the third respondent has sanctioned retirement and pensionary benefits to the petitioner vide order dated 12.05.2015 stating that the petitioner on moving to selection grade Headmaster / Higher Secondary School on 01.01.2008, he is eligible for additional 3% increment as per G.O.Ms.No.237. Accordingly, on sanctioning the pensionary benefits, the third respondent has made it clear that the petitioner is entitled for additional 3% increment as per G.O.Ms.No.237 on moving to selection grade Headmaster and revised pension proposals with proper entries in SR directed to be submitted for further action. Thereafter, the second



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respondent issued an order dated 27.07.2016 bearing reference Na.Ka.No.4747/A/2015 sanctioning additional increment equivalent to 3% of basic pay on moving to selection grade Headmaster as on 01.01.2008 with consequential fixation of pay and annual increments to the writ petitioner. Based on the orders of second respondent dated 27.07.2016, the writ petitioner was sanctioned with additional increment equivalent to 3% of basic pay with effect from 01.01.2008 and monetary benefits from 01.04.2013 onwards in the post of selection grade Headmaster. A proposal forwarded to third respondent on sanctioning of additional increment of 3% on moving to selection grade Headmaster as per G.O.Ms.No.237 was returned vide proceedings dated 22.11.2016 stating that in the revised pay after 01.01.2006 as per G.O.Ms.No.234 dated 01.06.2009, those selection grade / special grade staff who are drawing grade pay of Rs.6,600/- are entitled for only one increment i.e., 3% is admissible and not two increments as per G.O.Ms.No.237.

2.4. On enquiry, the writ petitioner came to know that there is a



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Government order dated 11.09.2015 stating that the employees drawing grade pay of Rs.6,600/- and above are not entitled for the benefit given to selection grade / special grade employees. The State Government issued the aforementioned letter only by referring to G.O.Ms.No.234 and not by referring to G.O.Ms.No.237. There is no restriction of grade pay for the purpose of awarding selection grade and special grade even in G.O.Ms.No.234 by which Tamil Nadu Revised Scale of Pay Rules 2009 has been notified. Hence, the Revised Pay Scale Rules, 2009 does not have any restriction to grade pay for the purpose of awarding selection grade on completion of 10 years and special grade on completion of 20 years from service. While that being so, there cannot be any denial of movement to selection grade / special grade on reaching the grade pay of Rs.6,600/- and the above is by virtue of an executive order and hence, it is not sustainable. Hence, the present writ petition has been filed before this Court.

3. The learned counsel for the petitioner submits that subsequent



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returning of the proposal by the third respondent dated 22.11.2016 would be contrary to G.O.Ms.No.237 dated 22.07.2023 and it would suffice if a direction is given to the third respondent to approve and sanction the revision of pension along with interest to the writ petitioner.

4. The learned Additional Government Pleader produced a letter dated 09.06.2017 bearing reference No.21598/PC-II/2017 from first respondent to third respondent and submitted that employees drawing grade pay of Rs.6,600/- and above in the ordinary grade alone shall be granted one stagnation increment only on completion of every 10 years of service at the rate of 3% of basic pay including grade pay as per G.O.Ms.No.234 and the employees drawing grade pay of Rs.6,600/- in selection grade of Rs.6,600/- in selection grade / special grade of the higher post by counting the services rendered by them in the lower post on identical scales of pay between 01.01.2006 and 31.05.2009 are entitled for one increment at the rate of 3% of basic pay on promotion and one increment at the rate of 3% of basic pay as stagnation increment and these categories of employees are not entitled



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for the second additional increment as per G.O.Ms.No.237 for regular selection grade / special grade holders who have completed 10 / 20 years of service in the same post and hence, the writ petition may be dismissed.

5. The learned Additional Government Pleader also produced a letter dated 27.10.2023 bearing reference Na.Ka.No.11127/AA1/2023 from the second respondent and submitted that the writ petitioner is not entitled for the second additional increment of 3% of basic pay as per G.O.Ms.No.237 as he had drawn basic pay of Rs.22,910/- and grade pay of Rs.6,600/- in the scale of pay of Rs.15,600-39,100 as on 01.01.2006. It is also stated in the aforementioned proceedings dated that the writ petitioner passed away on 29.10.2019.

6. Considering the fact that the writ petitioner has drawn the grade pay of Rs.6,600/- on 01.01.2006 itself, he is not eligible for additional increment benefit (over and above the existing one increment benefit) equivalent to 3% + 3% of basic pay on moving to selection grade / special grade in the revised scale of pay implemented with effect from 01.01.2006



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as per G.O.Ms.No.237 and he is only eligible for one increment i.e., 3% of basic pay as per G.O.Ms.No.234. Hence, the relief sought for by the writ petitioner cannot be granted and the writ petition is liable to be dismissed.

7. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs.

07.11.2023

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

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To

1. The State of Tamil Nadu,
Rep.by its Principal Secretary to Government,
Finance Pay Cell Department,
Secretariat, Fort St.George,
Chennai – 600 009.
2. The Chief Educational Officer,
Thiruvannamalai District,
Thiruvannamalai.
3. The Principal Accountant General (A&E),
DMS Campus, Teynampet,
Chennai – 600 006.

V.BHAVANI SUBBAROYAN., J



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