



Writ Appeal No.2215 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 20.10.2023

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE G.ARUL MURUGAN**

**Writ Appeal No.2215 of 2019
and C.M.P.No.14694 of 2019**

P.Athimoolam

... Appellant

Vs

1. The Senior Accounts Officer,
O/o. The Principal Accountant General,
(Accounts & Entitlements),
Tamil Nadu,
361, Anna Salai, Chennai – 18.

2. The Director of School Education,
DPI Compound, College Road,
Nungambakkam, Chennai – 6.

3. The District Educational Officer,
Chennai East, Chennai – 94.

4. The Secretary,
Muthaiyalpet Higher Secondary School,
No.167/83, Thambu Chetty Street,
Chennai – 1.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order made in W.P.No.24610 of 2012 dated 27.08.2013.



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For Appellant : Mr.J.Jayamalan

For Respondent : Mr.V.Vijay Shankar [R1]
Mr.K.V.Sajeev Kumar
Special Government Pleader
[R2 & R3]
No appearance - R4

JUDGMENT

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

This writ appeal had been directed against the order passed by the Writ Court dated 27.08.2013 made in W.P.No.24610 of 2012.

2. The appellant was initially appointed as Drawing Master in a private school at Chennai on 18.03.1974 and he was working in that capacity till 1978. His basic pay was fixed at that time thereafter, he resigned the post of Drawing Master on 19.07.1978 and joined in the fourth respondent school on 19.07.1978 and completed his probation on 19.07.1979.



3. While, he was working in the fourth respondent school, he was awarded selection grade on 03.06.1984 by fixing his pay and on 01.06.1988, the revised selection and re-fixed pay scale also awarded as per G.O.Ms.No.304 dated 28.03.1990.

4. After three years, the petitioner was promoted as Tamil Pandit on 10.06.1993. At that stage also, his pay was fixed subsequently on the basis of G.O.Ms.No.238, School Education (E2)Department, dated 26.06.1998. The appellant was also awarded selection grade in Tamil Pandit post and his pay was fixed at Rs.2,000/-, in the scale of 1640-60-2600-75-2900. Thereafter, he was promoted as P.G.Assistant, Tamil Pandit on 17.06.2011 and retired from service on 30.06.2011, while he was working as such i.e., Tamil Pandit P.G.Assistant at fourth respondent school.

5. It is to noted that from 01.04.1988, the pay of Selection Grade in the promoted post has been made to the appellant and accordingly, the pension was calculated and paid.



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6. However not satisfied with the same the appellant sought for revised enhanced pay for selection grade with effect from 03.06.1994, that was rejected, as against which, the appellant/petitioner approached the Writ Court and filed the said writ petition. After hearing both sides, the learned Judge, who disposed the said writ petition had passed an order on 27.08.2013, whereby, he confirmed the order passed by the authorities i.e., the respondents herein while calculating the enhanced pay on the selection grade only with effect from 01.06.1988 and the plea raised in this regard by the appellant/petitioner to give such enhanced pay from 03.06.1994 since was negated, which was confirmed by the learned Judge through order dated 27.08.2013.

7. Aggrieved over the same, the petitioner/appellant in fact had made a mention before the learned Judge, therefore, the case was taken up “For Being Mentioned” on 06.02.2014, where once again it has been reiterated by the learned Judge of the order passed by him on 27.08.2013. As against these orders, the present appeal had been directed.

8. Heard Mr.R.Jayamalan, learned counsel appearing for the appellant, Mr.V.Vijay Shankar, learned counsel appearing for the first



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respondent and Mr.K.V.Sajeev Kumar, learned Special Government
appearing for the second and third respondents.

9. We have gone through the impugned order passed by the Writ Court and also have taken note of the materials placed before this Court.

10. Though G.O.Ms.No.238 was issued, subsequently an erratum also has been issued by the Government in G.O.Ms.No.24, School Education (E2 Department) dated 02.02.1999, where the following has been stated by the Government:

“2) It has been brought to the notice of the Government by the Director of School Education that during the fifth pay commission, the scale of pay of Selection Grade Secondary Grade Teacher is Rs.1400-50-2300-60-2600 and the scale of pay of ordinary Grade of B.T.Assistant is Rs.1400 – from 01.06.1988 only. But in para 5 of Government order it is stated that these orders shall take effect notionally from identical scale of pay on 01.04.1986. There was no identical scale of pay on 01.04.1986 between Selection Grade, Secondary Grade and Ordinary grade of the B.T. Assistant. Identical scales of pay between the above categories come into force only from 01.06.1988. Therefore, the Director of School



Education has requested the Government to issue an Errata to para 5 of the Government order (G.O) No.238, School Education (E2) Department, dated 26.06.1998 to the effect that the orders shall take effect from 01.06.1988.

3) In the circumstances stated by the Director of School Education, in this letter read above, the Government issued the following erratum to G.O.Ms.No.238 School Education Department dated 26.06.1998.

ERRATUM

The existing para -5 in G.O.Ms.No.238, School Education Department, dated 26.06.1998 shall be substituted as follows:-

(5) These orders shall take effect from 01.06.1988.

4) This prior issues with the honourance of Finance Department vide its V.O.No.23703/Edn.II/99, dated 17.11.98 and Personnel and Administrative reforms Department vide its M.O.No.55855/S/98-1, dated 21.9.98.

(By order of the Governor)”

11. The reason for giving such erratum through G.O.Ms.No.24 is that the pay scale for Secondary Grade Teacher and the Ordinary Grade B.T. Assistant was same and it is not from 01.04.1986 and it is only from 01.06.1988. Therefore, if at all it is claimed to be considered for the



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Selection Grade pay after rendering 8 years service, it cannot be 01.04.1986 but it can be acted upon from 01.06.1988.

12. Therefore, it has become necessitated to issue erratum to G.O.Ms.No.238, which in fact was issued through G.O.Ms.No.24 as has been stated supra, which has been taken into account by the learned Judge of-course correctly and therefore inviting G.O.Ms.No.238 as well as G.O.Ms.No.24 as stated supra, the learned Judge had concluded that the stand taken by the authorities, who are the respondents in the writ petition as well as herein are correct.

13. The approach of the learned Judge based on the extant Government orders at the time of consideration of the case of the appellant and even thereafter is a right approach, which cannot be found fault with or cannot be stated as an erroneous one. Therefore, the order impugned does not warrant any interference from this Court. Hence, it is liable to be sustained. Accordingly, this appeal fails, hence, it is dismissed. No costs. Connected miscellaneous petition is closed.



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14. It is made clear that, if any excess payment had been made prior to the disposal of the writ petition by taking into account of the G.O.Ms.No.238 or otherwise, such an excess payment would not be recovered from the appellant as he has already retired from service.

(R.S.K.,J.)

(G.A.M., J.)

20.10.2023

Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation:Yes/No

mp

To

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O/o. The Principal Accountant General,
(Accounts & Entitlements),
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