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W.P.No.1233 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2023

CORAM:

THE HON'BLE Mrs.JUSTICE **V.BHAVANI SUBBAROYAN**

W.P.No.1233 of 2019 and
W.M.P.No.1382 of 2019

R.Venkatasubramanian (Deceased)
V.Parvatham
(Impleaded vide order dated
10.04.2023 made in W.M.P. No.10853 of
2023 in W.P.No.1233 of 2019 by
VBSJ)

... Petitioner

Vs.

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

2. The Assistant Educational Officer,
Vandavasi – 604 408
Thiruvannamalai District

3. The Sub-Treasury Officer,
Sub Treasury,
Vandavasi – 604 408
Thiruvannamalai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for
issuance of a Writ of Certiorarified Mandamus calling for the records of the
1st respondent proceedings in Na.Ka.No.31499/J1/2018 dated 20.06.2018,
quash the same and in consequence to that direct the 3rd respondent to pay
the enhanced revised pension together with arrears and interest as per



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G.O.Ms.No.235 Finance (Pay Cell) Department dated 01.06.2009.

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For Petitioner : Mr.K.Anbarasan

For Respondents : Dr.T.Seenivasan for R1 to R3

ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent proceedings in Na.Ka.No.31499/J1/2018 dated 20.06.2018, quash the same and in consequence to that direct the respondents to pay the enhanced revised pension together with arrears and interest as per G.O.Ms.No.235 Finance (Pay Cell) Department dated 01.06.2009.

2. The brief facts of the case is as follows:-

The petitioner joined in the service of respondents' department and on completion of service with satisfaction to the department, retired on 30.09.1986 on superannuation without any adverse remarks. The last drawn scale of pay was taken by the Department for granting pension. In the meanwhile, the Government has issued a Government order for enhancing the pension amount for the existing pensioners, for which G.O.Ms.No.235/Finance (Pay Cell) Department dated 01.06.2009 was issued by Government of Tamilnadu, as per the same, the petitioner becomes eligible and entitled for the enhanced pension from 01.01.2006.



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(ii) Subsequently, the petitioner also forwarded his application in the form of application appended to the Government Order through the competent / concerned authorities. Several representations were forwarded by the petitioner, however, the same were kept pending without disposal. Therefore, the petitioner approached this Court by way of W.P.No.1294 of 2015 and this Court by order dated 28.04.2015 directed the respondents to consider the petitioner's application and the said order was also not complied. As against the same, contempt notice was issued by this Court and on receipt of notice, the impugned order was passed negating the claim of the petitioner, hence this petition.

3. The learned counsel for the petitioner submits that the impugned order has been passed in violation of Article 14 and 16 of the Constitution of India and without considering the basic fact that as per Clause 2 Sub-Clause (ii)(a) of the G.O.Ms.No.235 Finance Pay Cell Department dated 01.06.2009, wherein 'all the existing pensioners are granted benefits'. Though the petitioner was an existing pensioner at that stage, the benefits of the said G.O., is denied. Further, similarly placed pensioners were granted benefits as per the said G.O., but denying the same to this petitioner is highly arbitrary, thereby pleaded to allow the present Writ



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4. The learned counsel for the petitioner submits that the impugned order has been passed in violation of Articles 14 and 16 of the Constitution of India. Further, the impugned order has been without considering the basic fact that as per Clause 2 Sub Clause (ii)(a) of G.O.Ms.No.235 Finance (Pay Cell) Department dated 01.06.2009, all the 'existing pensioners are granted benefits'. Though the petitioner is an existing pensioner, the benefits of the said GO is denied.

5. The learned counsel for the petitioner also submits that similarly placed pensioners were granted benefits as per the said G.O., but denying the same to this petitioner is highly arbitrary. Further, it is also contended by the petitioner's counsel that the petitioner died on 11.05.2021 and his wife, legal heir is brought on record, thereby pleaded to allow the present petition.

6. Per contra, the learned Special Government Pleader appearing for the respondents submits that the pre-revised scale of pay and the corresponding revised scale of pay depends upon the post held as on the date of retirement. It is submitted that the petitioner was holding the post of



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special grade in secondary grade teacher and therefore, the petitioner is not entitled for 50% of the revised scale of pay applicable to special grade in the post of primary school headmaster. Further, the petitioner has given a representation seeking benefit with reference to G.O.Ms.No.235 Finance (Pay Cell) dated 01.06.2009 under wrong interpretation that he was holding the post of special grade primary school though he was holding the post of Special Grade in Secondary grade only, hence the writ petition lacks merit, thereby pleaded to dismiss the petition.

7. Heard the learned counsel on either side and perused the documents placed on record.

8. It is an admitted fact that the petitioner had served as Secondary Grade Teacher in Vandavasi Union, Thiruvannamalai District with effect from 25.11.1965 and the petitioner was granted selection grade and special grade in the post of Secondary grade Teacher with effect from 25.11.1975 and 25.11.1985 respectively.

9. On going through the documents placed on record, it is seen that the petitioner, who was born on 17.09.1928, had joined as Secondary Grade Teacher on 03.07.1953 and the probation was confirmed on 25.11.1965.



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Further, the petitioner was awarded with Selection Grade in the post of Secondary grade teacher on 25.11.1975 and special grade was awarded on 25.11.1985, thereby the petitioner has completed 33 years of service. The 2nd respondent upon taking note of the said details and after scrutinising the entire documents had come to a conclusion that the petitioner is eligible for Rs.6,900/- as pension and Rs.4,140/- as family pension, since the petitioner had claimed benefits as if he had served as Primary school headmaster, but in reality, the petitioner was served as Special Grade Secondary Teacher, the authorities had negatived his application. Further, the petitioner, viz., Venkatasubramanian, had died on 11.05.2021, W.M.P.No.10853 of 2023 was filed by his wife, viz., Parvatham and the same was allowed by order dated 10.04.2023.

10. Considering the above said facts and circumstances of the present case and taking note of the fact that the petitioner, viz., Venkatasubramanian died on 11.05.2021 and that the 2nd respondent has come to a conclusion that the petitioner is eligible for Rs. 6,900/-, as on 01.01.2006, as pension and Rs.4,140/- as family pension, this Court is inclined to direct the respondents to pay a sum of Rs.6,900/- [Rupees Six Thousand Nine Hundred only] as pension, from 01.01.2006, till petitioner's death and after the petitioner's [Venkatasubramanian] death, [11.05.2021], a



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sum of Rs.4,140/- as family pension shall be paid to his wife, within a period of twelve weeks from the date of receipt of copy of a order without any further delay.

In the result, the present Petition is disposed of. No costs.
Consequently, connected miscellaneous petition is closed.

15.11.2023

Index:Yes/No
Internet:Yes/No
Speaking / Nonspeaking order
ssd

To

1. The Director of Elementary Education,
DPI Campus, College Road,
Egmore, Chennai
2. The Assistant Educational Officer,
Vandavasi – 604 408
Thiruvannamalai District
3. The Sub-Treasury Officer,
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V.BHAVANI SUBBAROYAN J.

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