



W.P.(MD)No.8857 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.8857 of 2023

O.R.Mohan Rajan

... Petitioner

vs.

- 1.The State of Tamil Nadu,
represented by its Secretary to
Government,
School Education Department,
St.George Fort, Chennai-9.
- 2.The Commissioner of School Education,
Office of the Commissioner of School
Education,
College Road, DPI Compound,
Chennai-600 006.
- 3.The Director of Elementary Education,
Office of the Directorate of Elementary
Education,
DPI Compound,
College Road, Chennai-6.
- 4.The Chief Educational Officer,
Office of the Chief Educational Officer,
Theni, Theni District.



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5.The District Elementary Educational
Officer,
Office of the District Elementary
Educational Officer,
Theni, Theni District.

6.Sri Onnuramaswamy Middle School,
represented by its Secretary,
Thevaram, Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the 1st respondent to consider the petitioner's representation, dated 28.02.2023, to extend the benefits of G.O.Ms.No.210, School Education (G1) Department, dated 14.08.2009, for advancement of Selection Grade with effect from 23.02.1996 Special Grade with effect from 23.02.2006 and Super Grade with effect from 23.02.2016 in the light of order made in W.A.No. 34 of 2017, etc., dated 03.01.2019 and W.A.Nos.73 of 2016 etc, dated 26.03.2019, of this Court within the period that may be stipulated by this Court.

For Petitioner	: Mr.C.Venkatesh Kumar for M/s.Ajmal Associates
For R1 to 5	: Mr.N.Satheesh Kumar Additional Government Pleader



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ORDER

This writ petition is filed for issuance of a writ of Mandamus, to direct the 1st respondent to consider the petitioner's representation, dated 28.02.2023, to extend the benefits of G.O.Ms.No.210, School Education (G1) Department, dated 14.08.2009, for advancement of Selection Grade with effect from 23.02.1996 Special Grade with effect from 23.02.2006 and Super Grade with effect from 23.02.2016 in the light of order made in W.A.No. 34 of 2017, etc., dated 03.01.2019 and W.A.Nos.73 of 2016 etc, dated 26.03.2019, of this Court within the period that may be stipulated by this Court.

2. The facts are that the petitioner was appointed as Secondary Grade Teacher on 24.09.1980 in the time scale of pay at Sri Onnuramaswamy Middle School, Theni. Thereafter, the petitioner was promoted as B.T., Middle School Headmaster on 01.12.1993, attained superannuation on 31.08.2018 and re-employed from 01.09.2018 to



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31.05.2019. The petitioner has rendered service of 13 years, 2 months and 7 days in Secondary Grade Teacher post and 24 years and 9 months in B.T., Middle School Headmaster. Totally, the petitioner has rendered 37 years, 11 month and 7 days of service. The petitioner was awarded selection grade with effect from 01.12.2003. The petitioner is claiming another selection grade and special grade and super grade by relying on G.O.Ms.No.210, School Education (G1) Department, dated 14.08.2009, by taking the service in the post of Secondary Grade Teacher and Elementary School Headmaster prior to 01.06.1988 to grant special grade in the Middle School Headmaster post and fix a pay scale in the post of Middle School Headmaster as Rs.2200-75-2800-100-4000, in terms of recommendation of the 5th pay commission. However, the said G.O., was restricted by issuing another G.O., that is G.O.Ms.No.190, School Education (G1) Department, dated 12.07.2010. The said issue was challenged before this Court and this Court in W.A.Nos.815 of 2010, vide judgment dated, 07.07.2011, followed by another judgment in



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W.A.No.34 of 2017, dated 03.01.2019 and W.A.No.73 of 2018, dated 26.03.2019, extended the benefits to all the similarly placed employees.

3. The contention of the petitioner is that it cannot be restricted to persons who have filed the writ petition and the petitioner is one among the similarly placed persons and the petitioner is entitled to G.O.Ms.No. 210, School Education (G1) Department, dated 14.08.2009.

4. The contention of the respondents is that the petitioner was already granted selection grade and special grade in the post of B.T., Middle School Headmaster. Therefore, again taking the same service and granting one more selection grade or special grade or super grade by invoking G.O.Ms.No.210, School Education (G1) Department, dated 14.08.2009 does not arise. Therefore, the respondents prayed to dismiss the writ petition.



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5.Heard Mr.C.Venkatesh Kumar, learned Counsel appearing for the petitioner and Mr.N.Satheesh Kumar, learned Additional Government Pleader appearing for respondents 1 to 5 and perused the records.

6.It is seen from the records that the petitioner has joined the service as Secondary Grade Teacher on 24.09.1980 and has served in the post for 13 years, 2 months and 7 days. If an employee is stagnating in the same post without promotion, the employee is entitled to selection grade. If an employee is stagnating for more than 20 years in the same post without promotion, he is entitled to get special grade. In the present case, since the petitioner is stagnating in the Secondary Grade Teacher Post for more than 10 years, he is entitled to get Selection grade. It is not evident from the facts stated by the petitioner whether he was granted Selection grade in the post of Secondary Grade Teacher.



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7.The petitioner was subsequently promoted as B.T., Middle School Headmaster on 01.12.1993 and has served in the said post for more than 24 years. Since the petitioner has stagnated in the said post for more than 20 years, he was granted Selection grade on completion of 10 years on 01.12.2003 and Special grade on completion of 20 years on 01.12.2013. The petitioner attained superannuation and retired on 31.08.2018. If the petitioner had continued in the B.T., Middle School Headmaster post until 2023, the petitioner would have got Super grade, because he would be stagnating in the same post for more than 30 years. But before attaining the period for Super grade, the petitioner has attained superannuation and retired from service on 31.08.2018. Therefore, he is not entitled to get Super grade.

8. The petitioner has misconstrued the G.O.Ms.No.210, School Education (G1) Department, dated 14.08.2009. Since the petitioner has received Selection grade and Special grade in the post of B.T., Middle



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School Headmaster, the petitioner is not entitled to claim Selection grade and Special grade again by taking the same period, more so, the petitioner is seeking Selection grade and Special grade again, by taking the “**entire service career**” and grant one more Selection grade that too by fixing a higher scale of pay for the same service. This is highly unjust enrichment. Hence, the petitioner is not entitled to Selection grade and Special grade as prayed for. This issue has already been dealt with in W.P.No.3186 of 2016 and 3187 of 2016 by this Court and by relying the above said order, dated 25.01.2022, this Court is of the considered opinion that the petitioner is not entitled to Selection grade and Special grade. Hence, the writ petition is dismissed. No costs.

Index : Yes / No

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Internet : Yes

NCC : Yes / No

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