



W.P.(MD)No.616 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 05.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.616 of 2019

N.Swaminathan

...Petitioner

Vs.

1.The Principal Secretary to Government,
Education Department,
Secretariat,
Chennai – 9.

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

3.The Chief Educational Officer,
Kanyakumari District,
Nagercoil.

....Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the third respondent in Na.Ka.No.950/EE2/2013, dated 24.10.2018 and quash the same and direct the respondents to grant higher grade/special grade to the petitioner in terms of G.O.(Ms)No.216 Finance (Pay Commission) Department, dated



W.P(MD)No.616 of 2019

22.03.1993 and G.O.(Ms)No.304 Finance (Pay Commission) Department,
dated 26.03.1990.

For Petitioner : Mr.P.Muthuvel

For Respondents : Mr.V.Nirmal Kumar,
Government Advocate

ORDER

Heard the learned counsel for the petitioner, the learned Government Advocate for the respondents and perused the materials available on record.

2. The case of the petitioner is that he was appointed as Higher Grade Teacher on 04.01.1965. He was promoted as Secondary Grade Teacher on 01.09.1988 and posted at Government Higher Secondary School, Edalakudi at Nagercoil. He was awarded Selection Grade in the year 1997 and retired in the year 2002 while he was working in Government High School, Meenakshipuram at Nagercoil. He worked in the Government High School from 01.09.1988.

3. The learned counsel for the petitioner submits that as per G.O.(Ms)No.216, Finance (Pay Commission) Department, dated



W.P(MD)No.616 of 2019

22.03.1993, the Secondary Grade Teachers, who were working in the High Schools till 28.03.1990, are eligible for promotion as Primary School Headmasters. They are eligible to get higher Grade / Special Grade as per G.O.Ms.No.304, Finance (Pay Commission) Department, dated 26.03.1990. The learned counsel would further submit that the Government had granted Special Grade to several Secondary Grade Teachers, who were working in the High Schools till 28.03.1990. Accordingly, the petitioner made a representation to the third respondent on 10.09.2018 claiming similar benefits. The third respondent by proceedings, dated 24.10.2018, rejected the representation of the petitioner on the ground that the Secondary Grade Teachers, who had obtained the Court orders alone are eligible for similar benefits. Aggrieved by the same, the present writ petition is filed.

4. On behalf of the respondents, a counter affidavit has been filed by the third respondent.

5. The learned Government Advocate would submit basing on the averments made in the counter affidavit that, the Full Bench of this Court while disposing of the Review Application No.227 of 2015 in W.A.No.352 of 2014 and batch, by judgment, dated 09.12.2016, made it clear that the benefits as



W.P(MD)No.616 of 2019

directed in the Government Order shall be extended to the parties, who are before this Court alone and no fresh writ petition would be entertained on or after 09.12.2016.

6. The learned Government Advocate would further contend that in pursuance of the orders in the writ appeal, dated 09.12.2016, the State Government issued G.O.Ms.No.90, School Education SE3(1) Department, dated 09.05.2018, to implement the directions of the High Court. The learned Government Advocate further submits that as the petitioner is not a party in the said batch of litigation, he is not entitled for the relief sought for in this writ petition.

7. The learned counsel for the petitioner contends that a Division Bench of this Court by its judgment, dated 23.09.2019 in W.A.No.3290 of 2019, in an identical matter, has set aside the order of the learned Single Judge passed in the writ petition and allowed the writ appeal, directing to pay the amount due to the appellant therein within two weeks.

8. In this context, the learned counsel for the petitioner has placed reliance on the judgment of the Hon'ble Apex Court in *State of Utter Pradesh*



W.P(MD)No.616 of 2019

and others v. Arvind Kumar Srivastava and others reported in **2015 (1SCC)**

347, wherein the Hon'ble Apex Court dealt with the issue as to the entitlement of judgment in rem with an intention to benefit all similarly situated persons irrespective of whether they had approached the Court or not. In the said judgment, the Hon'ble Apex Court held that when a particular set of employees is given a relief by the Court, all other identically situated persons should be treated alike by extending the same benefit, since not doing so would amount to discrimination and be violative of Article 14 of the Constitution of India.

9. In view of the facts and circumstances of the case, this Court is fully agree with the proposition of law laid down in the said judgment by the Hon'ble Apex Court.

10. In the present case, the contention of the respondents for not considering the claim of the petitioner is that the petitioner did not approach the Court by filing cases along with other persons, who approached this Court earlier. Now, in the light of the judgment of the Hon'ble Apex Court stated supra, there is no substance in the contention of the respondents.



W.P(MD)No.616 of 2019

11. It is an admitted fact that all other similarly situated persons are granted the benefit vide G.O.(Ms)No.90,School Education SE3(1) Department, dated 09.05.2018 in compliance of the orders of the Full Bench in Review Application No.227 of 2015 in W.A.No.352 of 2014 and batch, by judgment, dated 09.12.2016.

12. In the considered opinion of this Court, the petitioner is entitled for the same benefit and as such, there is no merit in the impugned order and accordingly, it is liable to be set aside.

13. For the above said reasons, this writ petition is allowed with the following directions:

(i)The proceedings of the third respondent in Na.Ka.No.950/EE2/2013, dated 24.10.2018, is hereby set aside.

(ii)The respondents are directed to grant Higher Grade / Special Grade to the petitioner in terms of G.O.(Ms)No.216 Finance (Pay Commission) Department, dated 22.03.1993 and G.O.(Ms)No.304 Finance (Pay Commission) Department, dated 26.03.1990.



W.P(MD)No.616 of 2019

(iii)The amount due and payable to the petitioner shall be sanctioned
within four weeks from the date of receipt of a copy of this order.

14. No costs.

05.09.2023

Index : Yes / No
NCC : Yes / No

PM

To,

- 1.The Principal Secretary to Government,
Education Department,
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DPI Campus, College Road,
Chennai – 6.
- 3.The Chief Educational Officer,
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W.P(MD)No.616 of 2019

BATTU DEVANAND, J.

PM

W.P.(MD)No.616 of 2019

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