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W.P.(MD)NO.15914 OF 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.15914 of 2020 AND
W.M.P.(MD)No.13310 of 2020

A.Santhosha Danis

... Petitioner

Vs.

1. The Principal Accountant General (A&E),
O/o.The Principal Accountant General (A&E),
Tamil Nadu,
No.361, Anna Salai,
Chennai – 600 018.

2. The Director of School Education,
Nungambakkam,
Chennai – 6.

3. The Chief Educational Officer,
O/o.The Chief Educational Office,
Ramanathapuram District.

4. The District Educational Officer,
O/o.The District Educational Office,
Ramanathapuram,
Ramanathapuram District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent vide



his proceedings No.P11/2/11127666/ADK dated 07.09.2020 and quash the same as illegal and consequently direct the respondents to sanction the full pension on the basis of the last drawn salary of the petitioner and also taking into consideration of the conferment of selection grade in the cadre secondary grade teacher w.e.f., 07.12.1993 within the period that may be stipulated by this Court.

For Petitioner : Mr.S.Mohamed Suhail,
for M/s.Ajmal Associates.

For R-1 : Mr.P.Gunasekaran,
Standing Counsel.

For R-2 to R-4 : Mr.N.Satheeshkumar,
Additional Government Pleader.

* * *

ORDER

Heard the learned counsel on either side.

2. The petitioner joined an aided institution as Secondary Grade Teacher on 07.12.1983. He subsequently joined the Government Higher Secondary School on 31.12.1996 as Secondary Grade Teacher. He was promoted as B.T.Assistant on 22.10.2003. On 09.07.2013, Selection Grade was awarded to the petitioner in the B.T. Assistant post with effect from 07.12.2003. The petitioner reached the age of superannuation on



31.01.2019. He was allowed to retire. Before his retirement, when the petitioner's pension proposals were sent to the Principal Accountant General, Chennai, objection was raised that the petitioner could not have been given Selection Grade in the B.T.Assistant with effect from 07.12.2003. The petitioner was made to repay the benefit conferred on him. The department took the stand that the petitioner can be given Selection Grade in the post of B.T.Assistant only on completion of ten years from 07.12.2003. The revised pension proposals were drawn and the petitioner's pension and other benefits were fixed and paid accordingly. Challenging the said revision, the present writ petition came to be filed.

3. I carefully went through the affidavit filed in support of the writ petition.

4. The entire case of the petitioner is anchored on G.O.Ms.No.216 Finance (Pay Cell) Department dated 22.03.1993. The said Government Order was issued in order to provide relief to those who were appointed as Secondary Grade Teachers in primary schools prior to 01.06.1988. Obviously, the said Government Order will have no application



whatsoever in the case of the petitioner. Realizing it, the learned counsel appearing for the petitioner shifted gear and placed reliance only on G.O.Ms.No.238 School Education Department dated 26.06.1998.

5. The question that arises for consideration is whether in the light of the said Government Order, revised pension proposal is liable to be set aside.

6. G.O.Ms.No.238 School Education Department dated 26.06.1998 holds that service under the Selection Grade in the Secondary Grade Teacher post shall be counted for the award of Selection Grade in B.T. Assistant post. But the operative portion of the said Government Order cannot be read in isolation. The Government Order has to be read as a whole. When G.O.Ms.No.238 School Education Department dated 26.06.1998 was issued, Selection Grade scale of pay of Secondary Grade Teacher was identical to that of the pay scale of the ordinary grade B.T.Assistant. But this position underwent change following the issuance of G.O.Ms.No.427 Finance (Pay Cell) Department dated 28.08.1998. With effect from 01.09.1998, the pay scale of the ordinary grade B.T. Assistant became Rs.5500-9000. It was higher than the pay scale of the Selection Grade Secondary Grade Teacher. Without



noticing this aspect of the matter, in the year 2013, it was erroneously ordered that the petitioner will be entitled to Selection Grade B.T.Assistant with effect from 07.12.2003. This error was rectified in the year 2018. The petitioner also without any demur paid the differential benefits drawn by him.

7. At the same time, the petitioner's case cannot be rejected in *toto*. A mere perusal of the entries made by the Accountant General would indicate that the Selection Grade pay scale of the Secondary Grade Teacher and that the pay scale of the ordinary grade B.T.Assistant was identical till 31.08.1998. Thus the petitioner was in such identical pay scale for a period of 2 years 25 days. Therefore, the petitioner ought to be granted Selection Grade scale of pay in the post of B.T.Assistant with effect from 22.10.2011. Even while rejecting the petitioner's clam that he is entitled to Selection Grade in B.T.Assistant with effect from 07.12.2003, I hold that he is entitled to Selection Grade in the said post with effect from 22.10.2011.

8. The respondents are directed to revise and refix the petitioner's pension and other monetary benefits accordingly. Refixation as well as



disbursement shall be done within a period of sixteen weeks from the date of receipt of a copy of this order. The order impugned in this writ petition is modified to this extent also. This writ petition stands partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

12.06.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

To:

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No.361, Anna Salai,
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G.R.SWAMINATHAN,J.

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