



W.P.(MD).No.16449 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.16449 of 2023

S.Arunachalam

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Principal Secretary
to the Government,
Education Department,
Fort St.George,
Chennai-600 009.

2.The Director of Elementary Education,
Directorate of Elementary Education,
D.P.I.Campus, College Road,
Nungambakkam, Chennai-600 006.

3.The AG's Office (Audit) Complex,
The Audit General,
361, Anna Salai, Rostrevor Garden,
Teynampet, Chennai-600 028.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents herein to consider the petitioner's representation, dated 08.03.2022 and extend



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the benefit of the G.O.Ms.No.210, School Education G1 Department, dated 14.08.2009.

For Petitioner : M/s.M.Nila
for Mr.R.Manoharan

For R1 & R2 : Mr.N.Ramesh Arumugam
Government Advocate

For R3 : Mr.S.Mahalakshmi
Standing Counsel

ORDER

The present writ petition has been filed seeking direction to the respondents to consider the petitioner's representation, dated 08.03.2022 and extend the benefit of the G.O.Ms.No.210, School Education G1 Department, dated 14.08.2009.

2. The petitioner was appointed as Secondary Grade Tamil Pandit on 29.11.1967 in Government School, Poolathur, Kodaikanal Taluk. Subsequently, he was promoted as Headmaster for the Elementary School in Vegavadhi Ashramam on 01.10.1983. He acquired qualification of B.A and B.Ed and considering his qualification, he was promoted to the post of Headmaster of Middle School on 20.03.1985. On 25.10.1996, the petitioner was promoted as Additional Assistant Educational Officer for Elementary Schools, South



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Madurai. On 31.05.2002, the petitioner on attaining the age of superannuation, retired from service. Before 01.10.1970, the post of Secondary Grade Teacher, Primary School Headmaster and Middle School Headmaster carried the same scale of pay. After 01.01.1970, the post of Middle School Headmasters became promotional post. However, juniors were retained even after 01.10.1970 in the post of Middle School Headmasters. As a result of which, Rural Development and Local Administration Department issued G.O.Ms.No.784, dated 14.05.1979 reverting the juniors who held the post of Middle School Headmaster as on 01.10.1970 to Secondary Grade Teacher or Primary School Headmaster thereby protecting the interest of junior teachers and by protecting the scale of pay of Middle School Headmasters. However, the junior teachers who faced reversion challenged the G.O.Ms.No.784, dated 14.05.1979 and obtained stay due to which the seniors got affected.

3. Thereafter, the said issue was resolved by the order in O.A.No.2250 of 1991, dated 25.04.1996 passed by the Tamil Nadu Administrative Tribunal in which it was directed to count the service rendered as Secondary Grade Teacher/Primary School Headmaster to give selection grade/special grade to the Middle School Headmaster respectively who joined as Secondary Grade Teacher before 01.10.1970. The said order was followed by the Tamil Nadu



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Administrative Tribunal in the order, dated 17.04.2002 in O.A.No.3521 of 1997 etc batch. While so, there was a revision in the scale of Middle School Headmaster pursuant to which fifth pay commission recommendation was implemented with effect from 01.06.1988. The petitioners in the original applications before the Tamil Nadu Administrative Tribunal were promoted as Middle School Headmaster before on 01.06.1988 and they sought the revision of scale of pay applicable to the post of Middle School Headmaster as on 01.06.1988 by granting them revision for selection grade/special grade in the post of Middle School Headmaster by counting the services rendered as Secondary Grade Teachers and Primary School Headmasters.

4. Thereafter, similarly placed persons filed a batch in W.P.No.29629 and 29624 of 2005 seeking for implementation of the order of the Tribunal in O.A.No.2250 of 1991, dated 25.04.1996 which attained finality and this Court by an order, dated 15.09.2005 directed the respondents therein to implement the order. The said order was also confirmed by the Division Bench in W.A.No.223 of 2008. In furtherance to that, the Government in School Education (G1) Department issued G.O.Ms.No.210, dated 14.08.2009 for counting the service rendered as Secondary Grade Teacher and Primary School Headmaster before 01.06.1988 for the purpose of grant of selection grade/special grade pay to



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Middle School Headmasters in respect of the petitioners in the aforementioned original applications who became Middle School Headmaster before 01.06.1988. It is a settled proposition of law for extending the benefit of G.O.Ms.No.210 to the concerned teachers who have joined service as Secondary Grade Teacher before 01.10.1970, should have been promoted as Middle School Headmaster before 01.06.1988. The petitioner joined the service as Secondary Grade Teacher before 01.10.1970 i.e., 29.11.1967 and he became Middle School Headmaster in the year 1985. Hence, the petitioner in accordance with the orders passed by this Court in W.P.No.32091 of 2014, 2978 of 2015 and 7123 of 2015 is qualified to receive benefit of selection grade/special grade from the date of his promotion as Middle School Headmaster by counting the service as Secondary Grade Teacher/Primary School Headmaster and accordingly, this petitioner is also qualified to receive revision of pay in the selection grade/special grade in the post of Middle School Headmaster from 01.06.1988 based on G.O.Ms.No.210, dated 14.08.2009 as there was a pay revision with effect from 01.06.1988.

5. As a result of which, the petitioner sent an elaborate representation on 08.03.2023 to the respondents seeking to extend the benefits mandated in



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G.O.Ms.No.210, dated 14.08.2009. However, the said representation was not considered and hence, this writ petition came to be filed.

6. The learned standing counsel for the 3rd respondent submitted a written communication of the 3rd respondent, wherein it is categorically stated as follows:

“6. At the latest, G.O.213, dated 02.12.2022 was issued based on the judgments in W.A.No.34 of 2017 and W.A.No.73 of 2016 filed before the High Court of Madras. In the judgment, dated 26.03.2019 in W.A.No.73 of 2016, it has been categorically directed to award the benefit under G.O.Ms.No.210, School Education (G1) Department, dated 14.08.2009, to the litigants therein depending upon the facts of each case.

7. The G.O.No.213, dated 02.12.2022, was an extension of the G.O.No.210, whereby the benefit was allowed to 612 beneficiaries (the litigants in various Court cases), mentioned in the list issued subsequently in letter Na.Ka.No.13339/E3/2021, dated 27.03.2023 of the Director of Elementary Education, Chennai.

8. It has been categorically mentioned in the G.O, that the benefit of G.O.No.210 could not be extended to any other individual and also subject to the outcome of the Review Appeal/Special Leave Petition filed before the Supreme Court of India by the department.



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9. Therefore, in view of the above, as the name of the petitioner Shri Arunachalam is not found in any of the lists of beneficiaries annexed to the above mentioned G.Os, he is not entitled to the benefits under G.O.No.210, dated 14.08.2009, as claimed in the WP.”

In view of the said instructions, the learned standing counsel pressed for dismissing the writ petition.

7. However, the learned counsel for the petitioner relying upon the order passed by this Court in W.P(MD)Nos.2490 and 2491 of 2014 pressed to allow the writ petition.

8. Heard M/s.M.Nila, learned counsel for the petitioner, Mr.N.Ramesh Arumugam, learned Government Advocate for R1 & R2 and M/s.S.Mahalakshmi, learned standing counsel for R3.

9. This Court in the aforesaid case while dealing with the similar issue, has held as follows:

“5.In the impugned orders, dated 21.06.2011 and 16.06.2011, issued by the District Educational Officer, it is stated that the earlier orders of Government are only in respect



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of the Teachers who have preferred Writ Petitions before this Court earlier and that the same cannot be applied to the petitioners. Reading of Government Order vide G.O.Ms.No.230, dated 10.08.2010, it is stated that the Teachers are entitled to get their salary revised as per the Fifth Pay Commission considering the Selection Grade and Special Grade in the post of Headmaster of the Middle School. Though it is stated in the Government Order that the order is restricted to those persons who have got specific orders of the Court, the petitioners seek the benefit of order passed by Court in the case of similarly placed persons. Hence, the rejection of the petitioner's request for the reason that the petitioners have not approached the Court may not be proper.....”

10. I am fully in consonance with the observations made by this Court in W.P(MD)Nos.2490 and 2491 of 2014. In view of the same, this Court is inclined to direct the respondents to consider the petitioner's representation, dated 08.03.2023 and thereafter, the 2nd respondent is directed to forward the same to the 1st respondent for appropriate action within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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11. With the above said observations, this Writ Petition stands disposed of. No costs.

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NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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To

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L.VICTORIA GOWRI, J.

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