



W.A.(MD)Nos.892 to 897 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **11.07.2023**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)Nos.892 to 897 of 2014

and

M.P.(MD)Nos.1, 1, 1, 1, 1, 1, 2, 2, 2, 2, 2 of 2014

- 1.The State of Tamilnadu,
Rep. by its Secretary to Government,
Education Department,
Secretariat,
Chennai – 600 009.
 - 2.The Director of School Education,
College Road,
Chennai – 600 006.
 - 3.The District Elementary Educational Officer,
Madurai District,
Madurai.
 - 4.The Assistant Elementary Educational Officer,
Madurai South Range,
Madurai.
- ..Appellants in all appeals



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/Vs./

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1.S.Rajammal

1.A.Janaki

1.G.Jeyarani

1.A.Sakthivel

1.C.Pandy

1.K.Kamalam

... 1st respondent in all appeals

2.The Secretary,

Nehru Middle School,

Koodalalagar Perumal Kovil Street,

Madurai 625 001.

...2nd respondent in all appeals

COMMON PRAYER:- Writ Appeals - filed under Clause XV of Letters Patent Act, to set aside the order dated 20.07.2012 passed in W.P. (MD)No.9026, 9032, 9033, 9034, 9036, 9037 of 2012.

For Appellants : Mr.S.Shaji Bino (in all appeals)

Special Government Pleader

For Respondents : Mr.Yuvaraja (for R1 in all appeals)

No appearance (for R2 in all appeals)



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COMMON JUDGMENT

(Judgment of the Court was made by **DR.ANITA SUMANTH, J.**)

The first respondent / writ petitioners in these writ appeals are Middle School Secondary Grade Teachers. They had filed writ petitions seeking a mandamus directing the respondents to consider their representations, where they had sought benefit of G.O.Ms.No. 216, Finance (PC) Department, dated 22.03.1993 and of an order of the Division Bench of this Court in W.P.(MD)No.8747 of 2009 dated 14.07.2009 as confirmed by the Hon'ble Supreme Court in C.C.No.2746 of 2010 dated 23.04.2010 as well as other orders of the High Court and the Government Orders. The writ petitions came to be allowed on 20.07.2012.

2. The learned Single Judge, apart from deciding the cases on their own merits, also proceeded on the submission of then learned Additional Government Pleader to the effect that the prayers sought for by the petitioners are squarely covered by the earlier decision of this



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Court including one in W.P.(MD)No.4686 of 2012 dated 11.07.2012 where, in very similar circumstances, the benefit of G.O.Ms.No. 216, Finance (PC) Department, dated 22.03.1993, had been extended to that petitioner. Learned Judge had taken into account the conclusion in W.P. (MD)No.4686 of 2012, and paragraph 5 thereof, which may be usefully referred to in the present matters as well:-

"5. Though the said submission appears to be reasonable, various proceedings issued by the Chief Educational Officers of Pudukkottai, Vilupuram and Salem would cumulatively show that the benefit conferred in G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993, has been invariably extended to almost all the similarly placed persons. Further, when the Tamil Administrative Tribunal has given a direction to the respondents to refix the scale of pay of the applicants therein in terms of the G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993 and this Court in W.P.No.8747 of 2009 has also categorically issued a direction and as against that, a Special Leave Petition filed by the State also came to be dismissed, this Court is bound to extend the benefit of G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993 to these petitioners also. Accordingly, the respondents are directed to extend the benefit of G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993 and G.O.Ms.No.258, School Education (M.1) Department, dated 06.09.2010 to all the petitioners on receipt of their detailed representations



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consisting of their service particulars. Since all the petitioners are senior citizens, on receipt of their individual applications with full details of their date of reaching Selection and Special Grade, date of retirement etc., the respondents are directed to dispose of their applications by extending the above mentioned benefits within a period of four months from the date of receipt of their applications enclosed with this order copy."

3. Thus, there was clearly no dispute or doubt in the minds of learned counsel to the effect that the ratio in W.P.(MD)No.4686 of 2012 would be applicable to the facts and circumstances of the present cases as well. That apart, order dated 11.07.2012 has also attained finality and no appeal has been filed by the State as against the same.

4. The issue in these matters relates to the applicability or otherwise of G.O.Ms.No. 216, Finance (PC) Department, dated 22.03.1993 to the cases of the writ petitioners / respondents before us. According to the learned Special Government Pleader, it is necessary for the writ petitioners to specifically establish that they have earned the benefit of special / selection grade, such benefit being not automatic.



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5. For this purpose, he places reliance on G.O.Ms.No.68, dated 23.01.1986 of the Personnel Administrative Reforms (PER-M) Department applicable to Departments in the State Administration that states as follows, in paragraph 2 thereof:-

“2. The Tamil Nadu Fourth Pay Commission while recommending retention of the scheme for provision of Selection/Special Grades has emphasized that the criterion of “Satisfactory Service” originally recommended by the Third Pay Commission for movement to Selection/Special Grades should not be given a go-by in the interests of Standards of efficiency in administration and that the same criterion as for promotion should form the basis hereafter for granting Selection Grade/Special Grade on completion of 10/20 years of service”

6. Thus, according to him, the award of special / selection grade pay is not an automated function and there has to be a specific note of 'satisfactory service' by the competent authority to show that the respondents have been awarded such enhanced pay.

7. We do not agree for the reason that G.O.Ms.No. 216, Finance (PC) Department, dated 22.03.1993 has been issued with the



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specific purpose of bringing in parity between the pay of secondary grade teachers in primary and middle schools.

8. Clause 3(ii) of the G.O.Ms.No. 216, Finance (PC) Department, dated 22.03.1993 makes it clear that the benefit of selection / special grade pay has been extended on the premise that the teachers in higher secondary stream were deemed eligible for such pay and thus, there is no further necessity for any other note of satisfaction by the competent authority in that regard.

9. In the interest of completion, we may extract the relevant clause of the GO as under:

“3. The above directions of Tribunal has been examined by the Government and it has been decided to issue the following order to protest certain special categories in the matter of awarding Selection Grade.

*.....
(ii) In respect of Secondary Grade Teachers in High Schools there is no promotion post for them as on 28.3.90 (i.e. the date of issue of the G.O. second read above), although there is promotion post in Primary Schools. As a measure of uniformity in respect of all secondary Grade*



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Teachers, Government direct that the Teachers be made eligible for Selection / Special Grade as in Annexure-I to the G.O. second read above.”

10. Thus, we have no hesitation in confirming the order of the Writ Court. These state appeals are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

[A.S.M.J.] & [R.V.J.]
11.07.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes
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DR.ANITA SUMANTH, J.
AND
R.VIJAYAKUMAR, J.

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Common Judgment made in
W.A.(MD)Nos.892 to 897 of 2014

Dated:
11.07.2023