



W.P(MD)No.7084 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P(MD)No.7084 of 2016

- 1.S.Savadamuthu
- 2.R.Karthikeyan
- 3.P.Vellaithai
- 4.P.Rengasamy
- 5.K.Ponnuthai
- 6.S.Palanisamy
- 7.G.Raju
- 8.T.Baggiyam
- 9.K.Ramasamy
- 10.K.Subbulakshmi
- 11.K.Vezhavendan
- 12.A.Joseph



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13.G.Jothimani

14.P.Chandradevi

... Petitioners

Vs.

1.State of Tamil Nadu

rep. by its Secretary to Government,
School Education Department,
Fort St. George,
Chennai.

2.The Director of Elementary Education,

D.P.I. Compound,
College Road,
Chennai - 600 009.

3.The District Elementary Education Officer,

Dindigul,
Dindigul District.

4.The Additional /Assistant Elementary Education Officer,

Assistant Elementary Education Office,
Reddiyachatiram,
Dindigul District.

... Respondents



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PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the fourth respondent in R.C. No.342/A1/2015 dated 03.07.2015 and quash the same as illegal and direct the respondents to award selection grade and special grade scale of pay in the cadre of Elementary School Head Master to the petitioners, by taking into account of their services rendered earlier as Secondary Grade Teacher and Elementary School headmaster before 01.06.1988 or after 01.06.1988 by extending the benefits granted to the similarly placed candidates by the Government in G.O.Ms.No.234 School Education Department (G2) dated 10.09.2009 with all monetary benefits.

For Petitioners : Mr.P.Ganapathi Subramanian

For Respondents : Mr.V.Nirmal Kumar

Government Advocate

ORDER

Heard Mr.P.Ganapathi Subramanian, learned counsel for the petitioners and Mr.V.Nirmal Kumar, learned Government Advocate appearing for the respondents and perused the materials available on record.



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2. The issue involved in this Writ Petition is relating to marking of the service rendered by the petitioners before 01.06.1988 for the purpose of fixation of Special Grade/Selection Grade of the petitioners, who had been initially appointed as Secondary Grade Teacher and thereafter, promoted as Middle School Graduate Headmaster.

3. In this Writ Petition, the petitioners are seeking a direction to the respondents to extend the benefits of the Government Order in G.O.Ms.No.234 School Education Department (G2) dated 10.09.2009 in favour of the petitioners and for a further direction to the respondents to award Selection Grade and Special Grade scale of pay in the cadre of Elementary School Headmaster to the petitioners, by taking into account of their services rendered earlier as Secondary Grade Teacher and Elementary School Headmaster before 01.06.1988 or after 01.06.1988 by extending the benefits granted to the similarly placed candidates by the Government in G.O.Ms.No.234 dated 10.09.2009 with all monetary benefits.



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4. With regard to the appointment of the petitioners and all other facts are not in dispute. The relief sought in this Writ Petition by the petitioners has been already considered by this Court in identical matters in earlier Writ Petition. One of such Writ Petition is W.P(MD)No.3527 of 2010 and an order in fact was issued by another learned Single Judge, which had been taken as a precedent and accordingly, the said Writ Petitions were allowed. The said order has been confirmed by the Division Bench of this Court in W.A(MD)No.233 of 2008 dated 21.04.2008. Following the same, G.O.Ms.No.210, dated 14.08.2009 had been issued and the benefit that was sought for by the employees had been extended. It is also not in dispute the issue raised in this Writ Petition is already dealt by several Writ Appeals also, where orders have been passed in favour of the Writ Petitioners and against the Government or its Departments and that have been confirmed by more than one Division Bench and the position has been reiterated again and again by subsequent orders. In paragraph No.8 of the order dated 03.01.2019 passed in the High Court of Judicature at Madras in



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W.A(MD)No.34 of 2017 and batch (In the Secretary to Government, Chennai Vs. S.Staislaus) is extracted herein under:

"8. Though Mr.C.Munusamy, learned Special Government Pleader (Education) states that long after their reinstatement, respondents have approached this Court and that a huge amount has to be paid, that cannot be a ground to deprive the respondents of their entitlement to selection grade / special grade to pay which the appellants ought to have paid. Courts have held that in the matter of fixation of pay and pension, there is a continuing cause and for the above said reason, we are not inclined to accept the said contention.

Following the above decision, all the writ appeals are dismissed. The appellants are directed to grant the benefits of G.O.Ms.No.210, School Education (G1) Department, dated 14.08.2009, to all the respondents and fix their pay in Selection Grade / Special Grade in the post of Middle School Headmaster, by counting the service rendered as Secondary Grade Teacher/Primary School Headmaster/Elementary School Headmaster, from the date of



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their promotion to the post of Middle School Headmaster, if they were not given the same already, with all monetary benefits and the pensionary benefits with arrears till the date of his death. Though, Mr.C.Munusamy, learned Special Government Pleader (Education) sought four months time to complete the exercise of revising the pay in the Selection Grade / Special Grade to the respondents, and consequently revise the pension / family pension, considering the long period of litigation, which the retired employees / members of the family of the retired employees have to undergo, litigation expenses etc., we, deem it fit, to direct the appellants, to fix the pay in the Selection Grade / Special Grade, within a period of four weeks, from the date of receipt of a copy of this judgement and consequently, the appellants are further directed to revise the pension / family pension, and disburse both arrears of salary and differential pension, within a period of eight weeks, thereafter. Consequently, connected civil miscellaneous petitions are closed. No costs".



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5. In paragraph Nos.4 and 5 of the order dated 26.02.2021 in W.A(MD)No.208 of 2018 and batch (In the Principal Secretary to Government, Chennai Vs. R.Velambal), the Division Bench of the Madurai Bench of Madras High Court held as follows:

"4. The contentions raised in the present appeals were also considered thereunder, including the decision of the Full Bench of this Court, in the case of Government of Tamil Nadu represented by the Secretary, School Education Department, Fort St. George, Chennai – 600 009 and others Vs. G.Eswaran and others reported in (2017) 2 MLJ 257 (FB).

5. In such view of the matter, the Writ Appeals are dismissed and the Writ Petitions are allowed, directing the official respondents to extend the benefit of G.O.Ms.No.210, School Education Department, dated 14.08.2009 to the writ petitioners and pass appropriate orders within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed".



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6. The Division Bench of the Madurai Bench of Madras High Court in **W.A(MD)No.1205 of 2013 and batch (In the State of TamilNadu, rep. By the Principal Secretary to Government, Chennai Vs. P.Mariajegam)** dated 09.06.2023 in paragraph No.3 has held as follows:

"3. In fact, the very same issue had been considered in an earlier Writ Petition i.e., W.P.(MD) No.3527 of 2010, that was infact ordered by another learned Judge, which had been taken as a precedent and accordingly, the learned Judge has allowed these Writ Petitions".

7. A careful perusal of the orders stated supra and on a careful examination of the facts and circumstances of the case and having heard the submissions of the respective counsels, this Court is of the opinion that the issue raised in this Writ Petition is fairly covered by the above orders stated supra and the same relief has to be granted in favour of the petitioners.



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8. Accordingly, this Writ Petition is allowed as prayed for.

9. No costs.

10. The respondents are directed to give benefits as prayed for by the petitioners within a period of three weeks from today.

24.08.2023

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

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BATTU DEVANAND, J.

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