



W.A.(MD)Nos.1279, 1329 & 1330 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2023

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

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and

C.M.P.(MD)Nos.11202, 11204, 11196 to 11198 and 11200 of 2019

- 1.The State of Tamil Nadu,
Rep. By its Secretary,
Department of School Education,
Fort St.George,
Chennai-600 009.
- 2.The Director of Elementary Education,
College Road, Chennai-600 006.
- 3.The District Elementary Educational Officer,
Virudhunagar, Virudhunagar District.
... Appellants 1 to 3 in all appeals
- 4.The Assistant Elementary Educational Officer,
Rajapalayam,
Virudhunagar District. ...4th appellant in W.A.(MD)No.1279/2019
- 4.The Assistant Elementary Educational Officer,
Aruppukottai,
Virudhunagar District. ...4th Appellant in W.A.(MD)No.1329/2019



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4. The Assistant Elementary Educational Officer,
Narikkudi,
Virudhunagar District. ...4th appellant in W.A.(MD)No.1330/2019

/Vs./

1.P.Pitchai

2. The Correspondent,
Harirajan Primary School,
Seithur Post,
Virudhuangar District. ...Respondents in W.A.(MD)No.1279/2019

K.Madasamy ...Respondent in W.A.(MD)No.1329/2019

1.S.Soundararajan

2. The Correspondent,
TELC Primary School,
Pillayar Natham,
Narikudi Range,
Virudhunagar District. ...Respondents in W.A.(MD)No.1330/2019

COMMON PRAYER:- Writ Appeals - filed under Clause XV of Letters Patent Act, to set aside the order dated 28.10.2013 in W.P.(MD)Nos. 17333, 17328 and 17329 of 2013.

For Appellants	: Mr.V.Om Prakash Government Advocate (in all appeals)
For R2	: No Appearance (in all appeals)



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For R1 : Mr.Ragadeeshkumar
for M/s.Isaac Chambers
(In W.A.(MD)No.1279/2019)
For R1 : Mr.R.Lakshmanan
(In W.A.(MD)No.1329/2019)
For R1 : Mr.Marudhupandian
for Mr.C.Mayilvahana Rajendran
(In W.A.(MD)No.1330/2019)

COMMON JUDGMENT

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

The state is the appellant in all these writ appeals. Writ petitioners had filed writ petitions seeking a mandamus claiming benefits of G.O.Ms.No.234, School Education (G) Department, dated 10.09.2009 and consequential G.O.Ms.No.216, School Education (G2) Department, dated 30.12.2011.

2. The writ petitions had come to be allowed by an order of the Writ Court dated 28.10.2013 issuing a positive direction to the respondents to pay over the benefits under G.O.Ms.No.234, School Education (G) Department, dated 10.09.2009 within a period of six months from the date of receipt of that order.



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6. We find that G.O.Ms.No.234, School Education (G) Department, dated 10.09.2009 and the decision of the Full Bench of this Court in the case of *Government of Tamil Nadu and Others vs. G.Eswaran and Others* (2017 (2) MLJ 257(FB)) would fully support the case of the writ petitioners.

7. Infact, there is no dispute on the position that all three writ petitioners have availed all Selection and Special grade within the range of dates as stipulated by the Full Bench at paragraph No.38 (i) of the decision. That paragraph reads as follows:

“38. Today, when the matters are taken up for consideration, keeping in mind the financial strain that would fall on the State exchequer in the event of implementation of the G.O., and in order to give a quietus to the issue, we feel it appropriate to fix the date as 01.03.2017 from which date onwards, the Government shall calculate and revise the pension and family pension (without arrears) based on the revised scales of pay by implementing the G.O., for which, the learned Advocate General and the learned counsels appearing for the Teachers have fairly acceded to the same. Accordingly, we pass the following:

i) The Government is directed to



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implement the G.O.Ms.No.216, dated 22.3.1993 for the period between 1.6.1988 and 31.12.1995, on and from 1.3.2017 onwards in respect of all the Secondary Grade Teachers of High/Higher Secondary Schools including the Special Teachers who attained Selection grade/Special Grade during the above said period, on par with the pay scale of Primary School Headmasters;”

8. In the case of the writ petitioner (Mr.P.Pitchai) in WP(MD)No.17333 of 2013, he had joined service as a Secondary Grade Teacher on 05.06.1967. He had been awarded Selection grade on 06.02.1979 and Special grade on 06.02.1989 and thus, the award of Special grade falls within the range as stipulated. He was appointed as Primary School Headmaster on 01.06.1991.

9. In the case of the writ petitioner (Mr.K.Madasamy) in WP(MD)No.17328 of 2013, his wife had joined service on 23.01.1973. She was awarded Selection grade in 1983 and Special grade in 1993, the latter falling within the range stipulated. She was appointed as Headmistress on 06.07.1995.



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10. In the case of the writ petitioner (S.Soundararajan) in WP(MD)No.17329 of 2013, he had joined service on 01.10.1969. He was awarded Selection grade in 1979 and Special grade in 1989, the latter falling within the range stipulated. He was appointed as Primary School Headmaster on 20.09.1990.

11. Thus, in all three cases, we find that the award of Special grade falls within the range stipulated by the decision of the Full Bench in *G.Eswaran* (supra) and their appointment as Primary School Headmasters / Headmistress was also post 1990.

12. Learned Government Advocate would fairly not dispute the position on merits. His case would rather fall on the aspect that G.O.Ms.No.216, School Education (G2) Department, dated 30.12.2011 was not intended to apply to teachers falling under Corporate Management.



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13. We reject this argument for the reason that there is nothing in the scheme of G.O.Ms.No.216, School Education (G2) Department, dated 30.12.2011 to exclude teachers coming under Corporate Management. A reading of the GO as well as the decision of the Full Bench makes it clear that the benefit of G.O.Ms.No.234, School Education (G) Department, dated 10.09.2009 is intended to be extended to all secondary grade teachers and thus, reading such exclusion as urged by the learned Government Advocate would only distort the GO, which is inappropriate.

14. His argument is premised on the position that the benefit was originally extended to one, Mr.R.Govindaraj, in whose case, G.O.Ms.No.234, School Education (G) Department, dated 10.09.2009 had been issued, who was a teacher serving in a Government school. However, we do not find that this is to be a relevant factor in applicability of G.O.Ms.No.216 dated 30.12.2011 insofar as it is for the concerned order to reveal restrictions or limitations in the applicability of the same, which in the present case has not been done.



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15. Incidentally, Mrs.K.Swarna Gandhi, deceased wife of Mr.K.Madasamy, Petitioner, had served in a Panchayat Union School. In light of the discussions as above, order of the Writ Court dated 28.10.2013 is confirmed and these writ appeals filed by the State are dismissed. No costs. Consequently connected miscellaneous petitions are closed.

[A.S.M.J.] & [R.V.J.]
19.09.2023

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

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Order made in
W.A.(MD)Nos.1279, 1329 & 1330 of 2019

Dated:
19.09.2023