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WA Nos.187, 870, 872, 1164, 2002, 2016, 2027, 2048,
2132 and 2459 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**WA Nos.187, 870, 872, 1164, 2002, 2016, 2027, 2048,
2132 and 2459 of 2022**

WA Nos.187 of 2022

1.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.

2.The Chief Educational Officer,
Kancheepuram District,
Kancheepuram.

... Appellants

versus

S.Kumar

... Respondent

PRAYER: Writ Appeal filed against the order of the learned Single Judge
in WP No.13697 of 2021 dated 11.08.2021.



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For the Appellants

:Mr.J.C.Durairaj
Additional Government Pleader
for all appeals

For the Respondents

:Mr.G.Sankaran
Senior Counsel
for Mr.J.Jayamalan
for sole respondent
in WA No.187 of 2022

Mr.P.Ganesan
for Mr.V.Sivalingam
for respondents 1 to 13
in WA No.2022 of 2022
for respondents 1 and 2
in WA No.2016 of 2022
for respondents 1 to 21
in WA No.2027 of 2022
for sole respondent
in WA No.2132 of 2022

Mr.Rangarajan
in WA No.872 of 2022
in WA No.870 of 2022

WA Nos.1164, 2048 and 2459 of 2022 -
No appearance



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COMMON JUDGMENT

(Judgment of the Court was delivered by *D.KRISHNAKUMAR, J.*)

The respondents herein had filed the writ petitions seeking to sanction the personal pay of Rs.750/- to the respondents notionally with effect from 01.01.2006 and monetary benefits with effect from 01.01.2011 as per G.O.Ms.No.23 Finance (Pay Cell) Department dated 12.01.2011.

2. The writ court, following the decision rendered by the Madurai Bench of this Court in WP No.(MD) 19240 of 2014 dated 02.01.2018, had allowed the writ petitions. Challenging the said orders, the appellant Department has preferred the present intra-court appeals.

3. Learned Special Government Pleader appearing for the appellant Department would submit that challenging the order passed in WP No.(MD) 19240 of 2014 dated 02.01.2018, the appellant Department had filed an



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appeal in WA (MD) No.962 of 2018 before a Division Bench of this Court.

The Division Bench, by judgment dated 29.04.2021, had dismissed the said writ appeal. Aggrieved by the aforesaid judgment passed by the Division Bench, the appellant Department has filed a review application in Rev.Appl (MD) Nos.89 & 117 of 2021. The Division Bench, by a common order dated 04.02.2022, has set aside the earlier judgment passed in the writ appeal and allowed the review applications by holding as follows:

"40. As per G.O.Ms.No.270 Finance (Pay Cell) Department, dated 26.08.2010, special allowance of Rs.500/- to Secondary grade teachers from 01.08.2010 and as per G.O.Ms.No.23 dated 12.01.2011 Special Pay Rs.750/- has w.e.f., 01.01.2011.

41. So, the writ petitioners who were all promoted before 01.08.2010 cannot claim special allowance and also special pay as per G.O.Ms.No.23 Finance (Pay Cell) Department, dated 12.01.2011. In writ appeals also all the respondents/writ petitioners were promoted before the crucial date i.e., 01.08.2010. Admittedly, benefit of G.O.Ms.No.270 not given (already promoted). So, G.O.Ms.No.270 and G.O.Ms.No.23 need not be combined.

42. Due to wrong/false counter affidavit and G.O.Ms.No.234, dated 01.06.2009 and G.O.Ms.No.58 dated 25.02.2011 not being placed



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before the Writ Court could not consider other points.

43 (i). Finally, these Review Applications are allowed by setting aside the order, dated 29.04.2021 made in W.A.(MD) No.962 of 2018 and order, dated 10.06.2021 made in W.A.(MD) No.1038 of 2020. No costs. Since W.A.(MD) Nos.962 of 2018 and 1038 of 2020 are allowed, the order, dated, 11.02.2020 passed in W.P.(MD) Nos.19240 of 2014 and 16802 of 2015 are set aside.

43(ii). Since the Review applications are allowed all the Writ appeals in W.A.(MD) Nos.1854 to 1859 of 2021 also allowed by setting aside the order, dated 03.06.2021 in W.P.(MD) Nos.9076, 9078, 9079, 9082, 9088 & 10750 of 2021. No costs. Consequently, connected Miscellaneous Petitions are closed."

4. Learned Special Government Pleader, in the light of the aforesaid order passed by the Division Bench of this Court, has submitted the details of the respondents before this Court. He submits that only respondents in WA No.187 of 2022 and WA No.2459 of 2022, were promoted subsequent to 01.08.2010. Hence, as per the aforesaid order of the Division Bench of this Court in Rev.Appl (MD) Nos.89 & 117 of 2021, only these respondents are entitled for special allowance of Rs.500 from 01.08.2010 as per



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G.O.Ms.No.270 Finance (Pay Cell) Department dated 26.08.2010 and special pay of Rs.750/- with effect from 01.01.2011 as per G.O.Ms.No.23, Finance (Pay Cell) Department, dated 12.01.2011.

5. Insofar as other respondents in the writ appeals are concerned, they have been promoted prior to 01.08.2010 and therefore, in the light of the aforesaid order passed by the Division Bench of this Court, they are not entitled as per G.O.Ms.No.270 Finance (Pay Cell) Department dated 26.08.2010 and G.O.Ms.No.23, Finance (Pay Cell) Department, dated 12.01.2011. Hence, he seeks to set aside the orders passed by the writ court with regard to these respondents.

6. As the respondents in WA No.187 of 2022 and WA No.2459 of 2022, were promoted subsequent to 01.08.2010, in the light of the order passed in the review applications in Rev.Appl (MD) Nos.89 & 117 of 2021, these respondents alone are entitled for special allowance of Rs.500 from 01.08.2010 as per G.O.Ms.No.270 Finance (Pay Cell) Department dated



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26.08.2010 and special pay of Rs.750/- with effect from 01.01.2011 as per G.O.Ms.No.23, Finance (Pay Cell) Department, dated 12.01.2011. Therefore, we are not interfering with the orders in Writ Petitions Nos.13696 and 13697 of 2021 dated 11.08.2021 passed by the writ court. Consequently, WA Nos.187 and 2459 of 2022 are dismissed.

7. As regards respondents in WA Nos.870, 872, 1164, 2002, 2016, 2027, 2048 and 2132 of 2022, they have been promoted prior to 01.08.2010 and therefore, in the light of the aforesaid order passed by the Division Bench of this Court in Rev.Appl (MD) Nos.89 & 117 of 2021, they are not entitled to get the benefits as per G.O.Ms.No.270 Finance (Pay Cell) Department dated 26.08.2010 and G.O.Ms.No.23, Finance (Pay Cell) Department, dated 12.01.2011. Hence, we have no hesitation to interfere with the orders passed by the learned Single Judge and set aside the same. Hence the order passed by the Writ Court in WP Nos. 3501, 3503 5591, 6841 6847, 7038, 13690 and 13739 of 2021 dated 19.02.2021, 07.03.2021 08.03.2021, 17.03.2021, 19.07.2021 and 11.08.2021 respectively are set



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aside and consequently, the writ appeals in WA Nos.870, 872, 1164, 2002, 2016, 2027, 2048 and 2132 of 2022, are allowed. It is open to the parties to agitate before the appropriate forum, if otherwise eligible. There shall be no order as to costs. Consequently, CMP Nos.1320, 5813, 5819, 7373, 14960, 15132, 15413, 15854, 15301 and 15813 and 19126 of 2022 are closed.

[D.K.K., J.] [K.B., J.]
15.07.2024

Index : Yes/No
Neutral Citation : Yes/No
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D.KRISHNAKUMAR, J.
and
K.KUMARESH BABU, J.

(mrn)

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