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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.23744 of 2015

1.M.Kulandaivelu (Deceased)
2.K.Uma
3.K.Ravikumar
4.K.Sivakumar ... Petitioners
(P2 to P4 substituted as Legal Heirs of the deceased sole petitioner)

Vs.

1. The Government of Tamil Nadu,
   represented by the Secretary to Government,
   School Education Department,
   Fort St.George, Chennai – 600 009.

2. The Director of Elementary Education,
   College Road, Chennai – 600 006.

3. The District Elementary Educational Officer,
   Namakkal District, Namakkal.

4. The Assistant Elementary Educational Officer,
   Namagiripettai Panchayat Union,
   Namagiripettai, Namakkal District. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd

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respondent issued in Na.Ka.No.2200/C2/2010, dated 23.07.2010 and quash the same insofar as it denies arrears of pay and issue a consequential direction to the respondents to grant arrears of pay in respect of pay fixation done under G.O (Ms) No.207, School Education (G2) Department, dated 30.09.2008.

For Petitioner : Mr.R.Saseetharan

For Respondents : Mr.K.H.Ravikumar,
Government Advocate

O R D E R

This writ petition has been filed questioning the proceedings issued by the Respondent No.2 bearing நக.எண்.220/சி2/2010, dated 23.07.2010 and also seeking a consequential direction to the respondents to grant arrears of pay in respect of pay fixation done under G.O (Ms) No.207, School Education (G2) Department, dated 30.09.2008.

2. No counter-affidavit is filed by the respondents.

3. When the matter is taken up for consideration, the learned counsel appearing for the petitioner brought to the notice of this Court that the similar

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issue, wherein the very same impugned proceedings dated 23.07.2010 was challenged before this Court and the learned Division Bench of this Court in the case of ***"The Government of Tamil Nadu -vs- V.N.Kalisamy"*** reported in **2023 (2) Writ L.R.217** has been pleased to declare the said proceedings dated 23.07.2010 as illegal and directed the respondents therein to extend the benefits provided under G.O (Ms) No.207, School Education (G2) Department, dated 30.09.2008 to the petitioners therein. A copy of the said order is also placed before this court.

4. The operative portion of the said order reads as under:-

> *"19. However, diagonally opposite to the said import of the G.O., an interpretative proceeding was issued by the Director of School Education Department dated 23.07.2010, when it was questioned, it was rightly held by this Court right from 2012 that, the said proceedings is not in consonance with the said G.O.(Ms).No.207, therefore those who were promoted as Primary School Headmasters after 01.06.1988 are entitled to get such benefit by virtue of G.O.(Ms).No.207 and such benefits seems to have been conferred to some of them. 20. Atleast against one judgment passed by the*

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Writ Court when intra-Court appeal was preferred before this Court by the appellant Department that was dismissed, of course, on the default ground against which no steps have been taken and this factor has been recorded by the Co-ordinate Bench in the decision dated 05.07.2023 in W.A.No.37 of 2018. 21. Therefore the issue has been settled and concluded where those teachers who were initially working as Secondary Grade Teachers and subsequently earned promotion as Primary School Headmaster after 01.06.1988 are entitled to get the benefit of Selection Grade and Special Grade and accordingly the pay has to be necessarily revised, therefore based on the revised pay what are all the arrears of pay shall be paid to them and correspondingly their pension also to be revised and after revision of pension, the arrears of pension also shall be paid to them and they are entitled to continuously receive the same till their lifetime. 22. Insofar as this benefit conferred on them is concerned, absolutely there can be any quarrel as the issue raised, as stated supra, has been settled. Therefore following the earlier judgments passed by this Court including the latest one of the Co-ordinate Bench dated 05.07.2023, we are inclined to dispose

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of these writ appeals as well as the writ petitions to the following effect:

(i) That the Writ Appeals in W.A.Nos.2857 of 2019, 1038 of 2017, 944 of 2017, 1663 of 2018, 1766 of 2018, 671 of 2018, 688 of 2018, 704 of 2018, 3738 of 2019, 3166 of 2019 and 957 of 2019 are deserved to be dismissed, accordingly they are dismissed and the writ petitions in W.P.Nos.25680 of 2011, 8962 and 8963 of 2011, 21852 of 2014, 15496 of 2014, 2112 of 2015, 22175, 22176, 22177, 22178, 22179, 22180, 22181, 22182 of 2015, 24456 of 2015, 12990 of 2016 and 22176 of 2021 are allowed.

(ii) As a sequel, the respective retired Teachers who earned the promotion as Primary School Headmasters after 01.06.1988 are entitled to get the benefit of salary dues as well as pension dues by way of arrears and that shall be calculated and be paid to the respective retired Teachers/Primary School Headmasters by the appellant Department

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*within a period of three months from the date of receipt of a copy of this ju*dgment."

From the above, it is evident that the proceedings dated 23.07.2010 was already held to be not in consonance with the orders issued by the Government in G.O (Ms) No.207, School Education (G2) Department, dated 30.09.2008.

5. The learned Government Advocate submitted that the petitioner was already extended the benefit of fixation of pay as well as the arrears of pay etc., However, the learned counsel for the petitioner disputed the same.

6. In view of the same, the impugned proceedings bearing நக.எண்.220/சி2/2010 dated 23.07.2010 is liable to declared as illegal and the same is accordingly set aside. Consequently the respondents are directed to extend the benefit provided under G.O (Ms) No.207, School Education (G2) Department, dated 30.09.2008 to the Petitioner No.1 and pay the arrears of salary as well as arrears of pension consequent upon fixation of his pay, if

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not already paid to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.

7. Accordingly, the writ petition is allowed. No costs. Consequently, the connected miscellaneous petitions, if any shall stand closed.

22.10.2024

skr
Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No

To

1. The Secretary to Government of Tamil Nadu,
   School Education Department,
   Fort St.George, Chennai – 600 009.

2. The Director of Elementary Education,
   College Road, Chennai – 600 006.

3. The District Elementary Educational Officer,
   Namakkal District, Namakkal.

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