



W.P.No.40162 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	13/3/2024
Delivered on	5/7/2024

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Writ Petition No.40162 of 2015

1. K.Sivaprakasam
2. A. Kannan
3. P. Sivalingam
4. R. Kalaichelvi
5. R. Karunanidhi
6. K.Gopal
7. V. Manogaran
8. P.Jayachandran
9. K.Devaraj
- 10.G.Subramanian
- 11.M.Sekar
- 12.Mani
- 13.K Sathiyarayanan
- 14.P.Pachiyappan
- 15.S. Kuppaswami
- 16.A. Mohan

...

Petitioner

Vs

1. The Government of Tamil Nadu
rep. By its Secretary to Government
School Education Department
Fort St. George
Chennai 600 009.



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

3. The District Elementary Educational Officer
Tiruvanamalai District
Tiruvannamalai.

4. The Assistant Elementary Educational Officer
Chengam Panchayat Union
Chengam
Tiruvanamalai District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certiorarified mandamus to call for the records relating to the order of the second respondent made in Proceedings in Na.Ka.No.2200/C2/2010 dated 23/7/2010 and quash the same in so far as it denies arrears of pay and issue 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 30/9/2008 to the petitioners.

For petitioners ... Mr.A.S.Kaizen

For respondents ... Mr.V.Manoharan
Additional Government Pleader

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ORDER



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This writ petition is filed for issuance of a writ of certiorarified mandamus, calling for the records of second respondent in Na.Ka.No.2200/C2/2010 dated 23/7/2010 and quash the same in so far as it denies arrears of pay and to issue 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 30/9/2008 to the petitioners.

2. The facts in brief as per the records are as under:-

The petitioners were appointed as Secondary Grade Assistant Teachers on various dates prior to 1/6/1988 and were subsequently promoted as Head Masters of Elementary School on various dates, after 1/6/1988. The Government has issued G.O.Ms.No.238 dated 26/6/1998, directing B.T Assistants in High Schools to count Secondary Grade Teachers service for the purpose of fixation of pay in the post of B.T.Assistant in Selection and Special Grade Scale of pay on the ground that as per G.O.Ms.No.210, dated 13/3/1987, if the Selection Grade scale of pay of lower post is identical with Ordinary Grade Scale of pay of promoted post, service rendered in the Selection Grade Scale of pay of



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lower post can be counted and pay can be fixed in the Selection Grade Scale of Pay of higher post. Government has issued G.O.Ms.No.212 dated 7/8/2000 extending the benefit of G.O.Ms.No.210 dated 13/3/1987 and the benefit of G.O.Ms.No.238 dated 26/6/1998 to the Elementary School Headmasters in Elementary School, subject to certain conditions.

3. This Court, by an order, dated 18/4/2001, in W.P.No.8896 of 1994 and has remanded the matter of fixation of pay of Elementary School Headmasters. In pursuance of the said directions, the Government has issued G.O.Ms.No.185 dated 16/12/2002, which reads as under:-

“Para (5) (i) that in respect of Elementary School Headmaster as on 1/6/1998, service rendered as Elementary School Headmaster prior to 1/6/1988 can be taken for fixation of Selection Grade and Special Grade scale of pay in the post of Elementary School Headmaster.

(ii). For those Elementary School Headmaster who were promoted after 1/6/1988, the Selection



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Grade and Special Grade scale of pay can be granted as per G.O.Ms.No.212 dated 7/8/2000.

(iii). For those Elementary School Headmasters who were in position as Elementary School Headmaster as on 1/6/1988 and were granted Selection Grade and Special Grade scale of pay by G.O.Ms.No.1381 dated 5/10/1990 their pay shall be fixed without any monetary loss as per the annexure given in the above said Government Order.

4. The said G.O.Ms.No.185 dated 16/12/2002 was challenged by way of filing writ petition by Elementary School Headmasters who were holding the post as on 1/6/1988 on the ground that they were denied the benefits conferred on them as per G.O.Ms.No.1381 dated 5/10/1990. During the pendency of the writ petition, Government has issued G.O.Ms.No.160 dated 23/8/2005 and restored the benefits of G.O.Ms.No.1381 dated 5/10/1990 and conferred the same on the Elementary School Headmasters, who were holding the post as on



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1/6/1988, thereby, all the writ petitions challenging G.O.Ms.No.185 dated 16/12/2002 were dismissed as infructuous.

5. Government, therefore, is expected to apply G.O.Ms.No.212 dated 7/8/2000 to those Elementary School Headmasters who were promoted on 1/6/1988 and then fixed the Selection Grade and Special Grade scale of pay and pension as per Clause 2 of para 5 of G.O.Ms.No.185 dated 16/12/2002. However, the District Level Officers have applied G.O.Ms.No.38 dated 5/3/2001 and refused to apply G.O.Ms.No.212 dated 7/8/2000. Therefore, W.P.No.8079 of 2006 has been filed and the said writ petition was ordered on 28/4/2006 stating that Elementary School Headmasters who were promoted after 1/6/1988 are entitled to fix their pay as per G.O.Ms.No.212 dated 7/8/2000 without reference to G.O.Ms.No.38 dated 5/3/2001.

6. Thereafter, Government has issued G.O.Ms.No.207 dated 30/9/2008 stating that Elementary School Headmasters who were promoted after 1/6/1988 are entitled to fix the pay without reference to G.O.Ms.No.38 dated 5/3/2001 but in accordance with G.O.Ms.No.185 dated 16/12/2002 and G.O.Ms.No.160 dated 23/8/2005.



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7. The petitioners who were promoted to the post of Elementary School Headmasters after 1/6/1988, are entitled for pay fixation as per G.O.Ms.No.207 dated 30/9/2008. The Assistant Elementary Educational Officer concerned, has revised the pay of the petitioners and fixed the pay as per G.O.Ms.No.207 dated 30/9/2008. It is stated that Elementary School Headmasters are entitled for pension alone and that the petitioners are not entitled for arrears of pay. Accordingly, Accountant General has sanctioned arrears of pension alone and has not granted arrears of pay.

8. The Director of Elementary Education/second respondent has issued general instructions in his proceeding dated 4/3/2010 that as per G.O.Ms.No.207 dated 30/9/2008, only arrears of pension have to be paid and that arrears of pay cannot be granted to the Elementary School Headmasters. The Director of Elementary Education has also issued similar Proceedings dated 23/7/2010 stating that as per G.O.Ms.No.207 dated 30/9/2008, Headmasters who retire from services on 1/6/1988 are entitled only to count their previous service for award of Selection Grade and Special Grade Pay in the post of Elementary School Headmaster and Middle School Headmaster and that they are only entitled for arrears of



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pension and not entitled for arrears of pay. Aggrieved by the same, the petitioners herein have filed this writ petition challenging the Proceedings of the Director of Elementary Education dated 23/7/2010 and sought for payment of arrears of pay.

9. Third respondent has filed counter affidavit stating that G.O.Ms.No.207 School Education Department dated 30/9/2008 was issued for granting the benefit of Selection Grade and Special Grade. W.P.No.8079 of 2006 was filed before the High Court to implement G.O.Ms.No.207, School Education Department dated 30/9/2008 by extending the benefit of Primary School Headmasters who retire from service after 1/6/1988. The said writ petition was allowed and the Department was directed to extend the benefit of G.O.Ms.No.207 dated 30/9/2008 to Primary School Headmasters who retire after 1/6/1998. Accordingly, Government has issued G.O.Ms.No.216 as per the directions of the Division Bench of this High Court in W.A.No.815 of 2010 directing the Director of Elementary School Education to grant benefit of Selection Grade or Special Grade to those Primary School Headmasters by counting their services prior to 1/6/1988.



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10. G.O.Ms.No.1381 dated 5/10/1990 was issued granting Selection Grade and Special Grade to Primary School Headmasters who were in position on 1/6/1988 as Headmasters of Primary Schools by counting the total service rendered by them in the posts of Secondary Grade Teachers and Headmasters of Primary School prior to 1/6/1988. It is mentioned further in the counter affidavit that the writ petitions cannot be allowed on sympathetic consideration on the ground that similarly placed persons were granted relief under G.O.Ms.No.207, as the writ petition filed after a period of more than two decades and accordingly, prayed to dismiss the writ petition.

11. Heard Mr.A.S.Kaizen, learned counsel for the petitioners and Mr.V.Manoharan, learned Additional Government Pleader for the respondents.

12. The petitioners are the Headmasters of Elementary Schools, who were promoted on various dates subsequent to 1/6/1988. The Government of Tamil Nadu has issued G.O.Ms.No.207 dated 30/9/2008, according to which the Elementary School Headmasters who were promoted after 1/6/1988 are entitled to fix their pay without reference to



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G.O.Ms.No.38 dated 5/3/2001 but the pay has to be fixed in accordance with G.O.Ms.No.185 dated 16/12/2002 and G.O.Ms.No.160 dated 23/8/2005. G.O.Ms.No.185 dated 16/12/2002 is applicable to the Headmasters who were promoted after 1/6/1988 whereas G.O.Ms.No.160 dated 23/8/2005 is applicable to the Headmasters of Elementary Schools who were holding the post of Elementary School Headmaster as on 1/6/1988, they are entitled to fix their pay by applying G.O.Ms.No.112 dated 7/8/2000 as per G.O.Ms.No.207 dated 30/9/2008. The Selection Grade and Special Grade of Pay and Pension were to be fixed without reference to G.O.Ms.No.38 dated 5/3/2001.

13. The petitioners herein who were promoted to the post of Elementary School Headmaster after 1/6/1988 are entitled for fixation of pay as per G.O.Ms.No.207 dated 30/9/2008. However, as per the Proceedings of concerned Assistant Elementary School Officers, though fixation was done, as per G.O.Ms.No.207 dated 30/9/2008, it restricted only as far as arrears of pension is concerned and not in respect of arrears of pay. However, G.O.Ms.No.207 dated 30/9/2008 clearly speaks that Headmasters promoted after 1/6/1988 are entitled to get their pay revised as per G.O.Ms.No.185 dated 16/12/2002 and G.O.Ms.No.160 dated



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23/8/2005 and that the pay will have to be fixed and consequently, revised pensionary benefits also required to be granted. Thereby, as per G.O.Ms.No.207 dated 30/9/2008 not only pay has to be revised but arrears of pension and arrears of pay are required to be granted.

14. The problem started when the second respondent/Director of Elementary Education has issued Proceedings dated 4/3/2010, instructing that as per G.O.Ms.No.207 dated 30/9/2008, only arrears of pension will have to be paid and not the arrears of pay to the Elementary School Headmasters. He has also stated to have called for the particulars from the District Panel Officers as to whether any arrears of pay was granted to any of the Elementary School Headmasters. The second respondent has also issued the impugned Proceeding dated 23/7/2010, instructing that as per G.O.Ms.No.207 dated 30/9/2008, the Headmaster of Elementary Schools who retire from service on 1/6/1988 are only entitled to count their previous service for award of Selection Grade and Special Grade Pay in the post of Elementary School Headmaster and Middle School Headmaster and they are entitled only for arrears of pension and not entitled for arrears of pay.



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15. The impugned proceedings of second respondent are directly contrary to G.O.Ms.No.207 dated 30/9/2008 which speaks that without reference to G.O.Ms.No.38 dated 5/3/2001, pay has to be fixed in accordance with G.O.Ms.No.185 and G.O.Ms.No.160 dated 23/8/2005. This Court in W.P.No.20706 of 2010 dated 5/8/2011, in W.P.No.11739 of 2011 dated 17/11/2011, in W.P.No.13747 of 2011 dated 16/8/2013, has quashed the proceedings of Directorate of Elementary Education dated 23/7/2010 and held that the Elementary School Headmasters are entitled for arrears of pay and pension, as per the pay fixation done under G.O.Ms.No.207 dated 30/9/2008.

16. Further, a Hon'ble Division Bench of this Court, while dealing with a similar issue in W.A.No.2857 of 2019 has passed the following orders. Relevant paragraphs are extracted hereunder:-

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



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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 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



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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 within a period of three months from the date of receipt of a copy of this judgment.

17. In view of the discussion made above, and on considering the order of the Division Bench of this Court referred above, the petitioners who are promoted as Primary School Headmasters after 1/6/1982 are



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entitled to get the benefit of salary dues as well as pension dues by way of arrears.

18. In the result, this writ petition is allowed and the order passed by the second respondent dated 23/7/2010 in Na.Ka.No.2200/C2/2010 are hereby set aside. The petitioners who are promoted as Primary School Headmasters after 1/6/1982 are entitled to get the benefit of salary dues as well as pension dues by way of arrears and the respondents are directed to pay the said arrears to the petitioners within a period of three months from the date of receipt of a copy of this order.

No costs.

5/7/2024

mvs.

Index: Yes/No

Neutral Citation: Yes/No

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Government of Tamil Nadu
School Education Department
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Dr.D.NAGARJUN,J

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Pre-delivery order made in
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