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W.A.No.1216 and 1222 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 26.04.2024

DELIVERED ON: 14.06.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE MR.JUSTICE K. KUMARESH BABU

W.A.Nos.1216 and 1222 of 2021

1.N.Asaithambi

2.N.Jambunathan

..Appellants in W.A.No.
1216 of 2021

1.D.A.Ramakrishnan

2.G.N.Lakshmanan

3.B.Murugan

4.A.Nanjan

5.T.Thangavelu

6.C.Saroja

..Appellants in
W.A.No.1222of 2021

Vs

1.The Government of Tamil Nadu
rep.by Secretary to the Government,
School Education Department,
For St.George, Chennai-60009

2.The Government of Tamil Nadu



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rep by its Secretary,
Finance Department,
For St.George, Chennai-600009

3.The Director of School Education,
College Road, Chennai-600006. ..Respondents 1 to 3 in both
WAs

4.The District Elementary Educational Officer,
Tiruppur District, Tiruppur.

5.The Assistant Elementary Educational Officer,
Dharapuram Panchayat Union,
Dharapuram, Tiruppur District. ..Respondents 4 &5 in
W.A.No. 1216 of 2021

6.The District Elementary Educational
Officer, The Nilgiris District,
Udhagamandalam ..Respondent in
W.A.No. 1222 of 2021

Common Prayer: These Writ Appeals filed under Clause 15 of the
Letters Patent against the order dated 18.01.2018 in W.P.No.19478
of 2013 and W.P.No 12092 of 2013.

For Appellants : Mr R.Saseetharan
(in both WAs)

For Respondents : Mr.R. Neelakandan, AAG
Assisted by Mr J.C.Durairaj, AGP

COMMON JUDGMENT



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D.KRISHNAKUMAR, J.

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Aggrieved by the common order passed by the writ court in W.P.No.12092 of 2013 and etc., batch, dated 18.01.2018, the present writ appeal has been filed by the appellants who are the petitioners in W.P.Nos.19478 of 2013 & 12092 of 2013 in the above batch.

2. Brief facts of the Case:

The appellants herein along with other similarly placed persons, who are retired teachers, have served as Secondary Grade Teachers and Elementary School Headmasters approached the writ court in W.P.No.19478 of 2013 and W.P.No. 12092 of 2023, dated 18.01.2018 (common order passed in batch of cases W.P.No.12092 of 2013 etc.,) with the prayer to extend the benefit of G.O.Ms.No. 216, School Education (G2) Department, datd 30.12.2011 and to direct the respondents to count the service rendered by them before 01.06.1988 as Secondary Grade Teacher and Primary School Headmaster for the purpose of fixation of selection and special



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grade scales of pay in the post of primary school headmaster and to grant selection grade scale of pay and special grade scale of pay in the post of Primary School Headmaster accordingly and grant arrears of pay and revised pension. The said writ petitions came to be disposed of by the learned single judge, directing the respondents to grant benefits to the appellants in terms of G.O.Ms.No. 179, School Education Department, dated 06.09.2013 on par with similarly placed persons and to pass orders. Pursuant to the said order, the respondent has passed an order dated 28.08.2020 stating that the writ petitioners are not eligible to get the benefit as they have not worked as Primary School Head Master for the period from 01.06.1988 to 31.12.1995, hence the present writ appeals.

3. The learned counsel for the appellants would submit that the learned single judge failed to see that the Government have issued G.O.Ms.No. 216 School Education (G2) Department, dated 30.12.2011 to grant the benefit of selection and special grade to all the primary school headmasters who were promoted after 01.06.1988 as Primary School Headmasters by counting the service



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rendered as secondary grade teacher or as a Primary School Headmaster, from the date of promotion as Primary School Headmaster irrespective of fact whether a particular Primary School Headmasters obtained orders or not. Further, the learned Single Judge did not take into consideration of the fact that the Government in G.O.Ms.No., 1381 dated 05.10.1990 has allowed the secondary grade teachers who were holding the post of Primary School Headmaser as on 01.06.1988 to count the service rendered as Primary School Headmaster and Secondary Grade Teacher before 01.06.1988, for the purpose of fixation of selection and special grade scale of pay.

4. The learned counsel for the appellants would further submit that the object behind the issuance of G.O.Ms.No.179 School Education (Elementary Education) Department dated 06.09.2013 is to count the service rendered as secondary grade teacher and primary school headmaster before 01.06.1988 for the purpose of granting the benefit of selection grade and special grade scale of pay in respect of Primary School Headmasters promoted



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after 01.06.1988, therefore, the said benefit cannot be denied to the appellants, who were promoted as primary School Headmaster after 31.12.1995 as the service as Primary School Headmaster and Secondary Grade Teacher is same for both primary school headmasters promoted before 31.12.1995 and after 31.12.1995. Therefore, the appellants herein, who were promoted after 31.12.1995, cannot be denied the counting of service rendered before 01.06.1988, on the ground that new pay scale is introduced w.e.f. 01.06.1988 which has nothing to do with the case.

5. The learned counsel for the appellants would further submit that upholding the cut off date as 31.12.1995 on the ground that the Government is entitled to fix cut off dates on the ground of financial strain and granting relief of pensionary benefits from the year 2018 is unreasonable and without assigning the any reason, therefore the order of the learned single is liable to be set aside.

6. On the other hand, learned Additional Advocate General appearing for the respondent would submit that the Government



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have issued G.O.Ms.No. 179, School Education Department, dated 06.09.2013 only for 1528 retired Primary School Headmasters, who were promoted as Headmasters of Primary Schools between 01.06.1988 to 31.12.1995 alone and they are only entitled to Selection Grade and Special Grade, provided they have not been granted the said benefit in the cadre of Primary School Headmaster.

7. The learned Additional Advocate General appearing for the respondent would further submit that pursuant to the orders of this Court, the respondent has passed an order dated 28.08.2020 stating that as per G.O.Ms.179 dated 06.09.2013, the appellants are not eligible to get the benefit of selection grade in the post of Primary School Headmaster, as the appellants has not been worked as Primary School Headmasters for the period from 01.06.1988 to 31.12.1995.

8. The learned Additional Advocate General appearing for the respondent would further submit that if the retired primary school headmasters are given the benefit of selection grade and special grade without any time limit and irrespective of cut off date,



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the Government would have to incur an expenditure of nearly Rs.278 crores by way of payment of pensionary benefits and approximately 11,239 retired primary school headmasters which includes persons who have obtained orders of the Court in their favour and the persons who have not approached the Court.

9. The learned Additional Advocate General appearing for the respondent would further submit that the cut-off date fixed by the Government in the said G.O is valid and reasonable having regard to the huge financial burden to which the State would be subjected to in case the cut-off date is extended beyond 31.12.1995. Therefore there is every justification for the State to introduce the cut-off date as 31.12.1995, and accordingly, the rejection order passed by the respondent on the ground that the appellants herein are promoted after 31.12.1995 is valid and does not require any interference by this Court.

10. Heard Mr.Saseetharan, learned counsel appearing for the appellants and Mr.R.Neelakandan, learned Additional Advocate



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General appearing for the respondent-Department and perused the materials available on record.

11. Based on the arguments presented by the learned counsels, the following issues needs to be answered;

- i. Whether the Government Order in G.O.Ms.No. 179, School Education Department, dated 06.09.2013 dated 06.09.2013 entitle all primary school headmasters promoted after 01.06.1988 to the benefit of selection and special grade, including the counting of service rendered before 01.06.1988, irrespective of the date of promotion as primary school headmaster.
- ii. Whether the appellants, who were promoted as primary school headmasters after 31.12.1995, are entitled to the benefits of selection grade and special grade, particularly in light of the Government's cut-off date prescribed in the said Government Order.
- iii. Whether the order dated 28.08.2020 passed by the respodnent-department rejecting the claim of the appellants on the ground that they are elgibile to grant benefit under G.O.Ms.No.179 dated 06.09.2013 is valid or not?



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12. The learned Single Judge, in the impugned order, has considered the scope of granting benefits under G.O.Ms.No.179, School Education Department, dated 06.09.2013 to the appellants and other similarly placed persons in detail and issued directions to the respondent-department to consider and pass appropriate orders. Accordingly, the respondent-department has considered the case of the appellants and passed orders stating that the appellants herein are not eligible for selection grade and special grade scale of pay under G.O.Ms.No. 179, School Education Department, dated 06.09.2013.



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13. A persual of the rejection order dated 28.08.2020 passed by the respondent-department confirms that the appellants herein though worked as secondary grade teachers prior to 01.06.1988, were promoted only after 31.12.1995. The details of service rendered by the appellants are as follows;

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Sl.No	Name of the appellants	Joined as Secondary Grade Teacher	Promoted as Elementary School Headmaster	Date of Retirement/ VRS
1	N.Asaithambi	22.11.1982	07.01.1998	31.03.2008
2	N.Jambunathan	22.04.1980	30.06.1997	31.01.2005

Appellants in W.A.No. 1222 of 2021

Sl.No	Name of the appellants	Joined as Secondary Grade Teacher	Promoted as Elementary School Headmaster	Date of Retirement/ VRS
1	D.A.Ramakrishnan	11.02.1969	15.07.1998	31.01.2005
2	G.N.Lakshmanan	01.10.1970	15.07.1998	31.08.2002
3	B.Murugan	01.11.1996	15.07.1998	31.05.1999
4	A.Nanjan	01.11.1966	29.07.1955	31.07.2004
5	T.Thangavelu	25.01.1974	20.06.2001	30.11.2008
6	C.Saroja	12.02.1977	01.06.2002	31.08.2009



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14. The issue before this court in these appeals involves the entitlement of counting of their service rendered before 01.06.1988 to grant selection and special grade benefits to the appellants herein who worked as primary school headmasters, and the validity of the cut-off date of 31.12.1995 fixed by the Government for granting these benefits. Though appellants argue that they are entitled to these benefits based on the Government Orders and on the principle of equality, the respondents strongly contend that the cut-off date fixed by the Government is valid and reasonable and extending the benefits beyond the cut-off date would lead to a substantial financial burden on the State, therefore as per the cut-off date (i.e 31.12.1995) fixed by the Government, the appellants herein, who were promoted after the said cutoff date, are not entitled to the said benefits.

15. Admittedly, in the earlier order in G.O.Ms.No.300, Education Department, dated 07.04.1994 the Government has not specified the period to be taken into account for the purpose of awarding Selection Grade/Special Grade, but it was clearly mentiond that awarding of Selection Grade and Special Grade for



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Primary School Headmaster should be granted only based on the service rendered in the post of Primary School Headmaster alone. Hence to avoid ambiguity, the Government has issued G.O.Ms.No.179, School Education (G2) Department, dated 06.09.2013 specifically mentioning the period to be taken for consideration for awarding Selection Grade/Special grade as 01.06.1988 to 31.12.1995. The relevant portion of the Government Order is extracted below;

“5. The Government after careful consideration of the proposal sent by the Director of Elementary Education, has decided to accept the same as on introduction of Tamil Nadu 5th Pay Commission on 01.06.1988 the scale of pay of the Secondary Grade Teacher is fixed as Rs.1200-2040 and Rs. 1400-2600 fixed for Primary School Headmaster separately, the Government cancels the Government Order 3rd referred above and issue order as follows:-

i) This Government Order is applicable to those 1528 persons as founded in the Annexure who filed writ petitions and obtained orders from the court.

ii) The Primary School Headmasters who were promoted for a period between 01.06.1988 and 31.12.1995 in Government Primary School / Panchayat Union Primary School and



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obtained orders from the court as per the Annexure and retired from service are alone are entitled to count the service rendered as Secondary Grade Teacher and Primary School Headmaster before 01.06.1988 for the purpose of granting Selection and Special Grade scale of pay in the post of Primary School Headmaster and accordingly permission is granted to the Director of Elementary Education for sanction.

iii) This order is applicable to those Secondary Grade Teachers who were promoted as Primary School Headmasters for a period between 01.06.1988 and 31.12.1995.

iv) The Director of Elementary Education is instructed to verify that above said persons are not granted Selection and Special Grade scale of pay by counting the service rendered as Secondary Grade Teacher, in the post of Primary School Headmaster, in Government Primary School and Panchayat Union Primary School and thereafter grant the benefit of Selection and Special Grade scale of pay.”

16. It is also useful to refer the decision of the Hon'ble Supreme Court in the case of GOVERNMENT OF ANDHRA PRADESH v. N.SUBBARAYUDU AND OTHERS [(2008) 14 SCC 702], wherein, the Hon'ble Supreme Court by relying on the



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Judgment of the Constitution Bench in D.S.NAKARA Vs. UNION OF INDIA [(1983) 1 SCC 305, held as follows:

“5. In a catena of decisions of this Court it has been held that the cut off date is fixed by the executive authority keeping in view the economic conditions, financial constraints and many other administrative and other attending circumstances. This Court is also of the view that fixing cut off dates is within the domain of the executive authority and the Court should not normally interfere with the fixation of cut off date by the executive authority unless such order appears to be on the face of it blatantly discriminatory and arbitrary.

In support of the contention that the appellants are not entitle for the relief as sought for by them, the 4th respondent/the District Elementary Educational Officer has filed counter affidavit. Paragraph 20 & 21 of the counter affidavit is extracted below;



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20. It is humbly submitted that this Hon'ble Court has allowed the writ appeals filed by the persons who have retired as Headmasters after 01.01.1996 who were also given the said benefit of Selection Grade and Special Grade as per the V Pay Commission which amounts to grant of double monetary benefit, one under the said G.O. and the other under the revised pay scale of VI Pay Commission. Consequently, the Government will incur a huge financial loss which will run to several crores of rupees if the relief is granted as prayed for by the petitioners.

21. It is in the aforesaid circumstances that the Government in G.O. (Ms) No. 179, School Education Department, dated 06.09.2013 ordered that the 1528 retired Primary School Headmasters who were promoted as Headmasters of Primary Schools between 01.06.1988 to 31.12.1995 alone will be entitled to selection Grade and Special Grade provided the aforesaid persons have not been granted Selection Grade/Special Grade earlier in the cadre of Primary School Headmaster by counting the service rendered in the post of Secondary Grade Teacher. It is submitted that the cutoff date fixed is valid and reasonable having regard to the huge financial burden to which the State would be subjected to in case the cutoff date is extended beyond 31.12.1995”.



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17. Admittedly, the appellants herein were promoted as Headmasters after 31.12.1995. The learned Single Judge, while issuing directions to consider the case of the appellants for granting benefits, ultimately upheld the validity and applicability of Government Order in G.O.Ms.No.179 dated 06.09.2013. The said Government Order clearly specifies the eligibility criteria for granting the benefit of selection grade and special grade in the post of Primary School Headmaster, limiting it to those who were promoted between 01.06.1988 to 31.12.1995. As per the provisions of G.O.Ms.No. 179, School Education Department, dated 06.09.2013, the appellants, who were promoted as Primary School Headmasters after 31.12.1995, do not meet the eligibility criteria for the benefits claimed by them. Further, no subsequent Government orders are placed before this Court to claim the benefit to count the period of service for extending benefits of Selection Grade and Special Grade of pay to the appellants as per the aforesaid G.O. Ms. No. 179.



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18. The Government has the authority to fix a cut-off date for granting selection and special grade benefits, considering the financial strain it would face otherwise. The principle of equality does not require the benefits to be extended beyond the cut-off date, especially when it would impose a significant burden on the State. As per the clear and unambiguous provisions of the said Government Order, the appellants, who were promoted as Primary School Headmasters after 31.12.1995 and have not worked as Primary School Headmasters for the period from 01.06.1988 to 31.12.1995, are not entitled to the benefits of selection grade and special grade in the post of Primary School Headmaster. On a careful consideration of the arguments and the relevant legal provisions, this Court finds that the rejection order passed by the respondent department is perfectly valid and finds no force on the contention of the learned counsel for the appellants for claiming benefits as per G.O.Ms.No. 179, School Education Department, dated 06.09.2013.

19. In fine, We conclude that the rejection order passed by the respondent department dated 28.08.2020 is perfectly valid and in



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accordance with the law. These writ appeals are dismissed. No costs.

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[D.K.K., J.] [K.B., J.]
14.06.2024

Index: yes/no

Internet:yes

Speaking Order/Non speaking order
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To

- 1.The Secretary to the Government,
School Education Department,
For St.George, Chennai-60009.
- 2.The Secretary,
Finance Department, For St.George, Chennai-60009
- 3.The Director of School Education,
College Road,
Chennai-600006.
- 4.The District Elementary Educational Officer,
Tiruppur District,
Tiruppur.

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&
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5.The Assistant Elementary Educational Officer,
Dharapuram Panchayat Union,
Dharapuram,
Tiruppur District.

6.The District Elementary Educational
Officer, The Nilgiris District,
Udhagamandalam.

Pre-Delivery Order in
W.A.No.1216 and 1222 of 2021

14.06.2024