



W.P.No.10638 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.10638 of 2022

N.Subbarayan

... Petitioner

Vs.

- 1.State of Tamilnadu,
Rep. by the Commissioner,
Adi-dravidar Welfare Department,
Chepauk,
Chennai 600 005
- 2.The District Adi-dravidar and
Tribal Welfare Officer,
Vellore District,
Vellore
- 3.Headmaster,
Government Adi-dravidar Welfare
Boys Higher Secondary School,
Chevvapet,
Thiruvallur District,
PIN 602 025
- 4.Union of India,
Rep. by the Senior Deputy
Accountant General/Pension,
Accounts & Entitlements,
Tamilnadu,
Anna Salai,
Chennai 600 018

... Respondents



W.P.No.10638 of 2022

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 fourth respondent pertaining to his order which is made in A.G(A&E)/Legal Cell/WP 2489/2014/2021-22 dated 09.07.2021 and the order made in D.O.Lr.No.A.G.(A&E)/Legal Cell / WP 2489/2014/2021-22/05.10.2021 and quash the same, consequent to direct the respondents to revise and re-fix the pensionary benefits of the petitioner by taking into account of last pay drawn by him Rs.11,300/- and to pay the arrears of difference of retirement service benefits including pension to the petitioner.

For Petitioner : Mr.R.Malaichamy

For Respondents : Mr.S.Arumugam,
Government Advocate

ORDER

This writ petition has been filed challenging the order passed by the fourth respondent dated 09.07.2021 and the order dated 05.10.2021 thereby rejected the request made by the petitioner as per GO.Ms.No.210 dated 11.03.1987 of Personnel and Administrative Reforms Department, G.O.Ms.No.58 dated 24.07.2014 of Adidravida and Tribal Welfare Department and GO.Ms.No.90 dated 09.05.2018 of Government of Tamilnadu School Education Department, he is not entitled for further pensionary benefits.



W.P.No.10638 of 2022

2. The petitioner had joined in the service of respondents 1 to 3 on 03.08.1970 as Elementary School Teacher. He was promoted to the post of Secondary Grade Teacher on 18.03.1972. He was granted Selection Grade on 18.03.1982 after completion of 10 years. He was promoted to the post of BT Assistant Tamil on 10.08.1982 and posted at Government Adidraavidar Welfare Boys Higher Secondary School, Arakkonam. He completed his services as Secondary Grade Teacher and BT Assistant /Tamil Pandit for twenty years as on 18.03.1992. Therefore, he was granted Special Grade in the scale of pay of Rs.2000-60-2300-75-3200 as per GO.Ms.No.210 dated 11.03.1987 of Personnel and Administrative Reforms Department. Once again, he was promoted to the post of PG Assistant (Tamil) on 16.08.2003. He attained age of superannuation on 30.06.2005 and he was retired from service on 01.07.2006. When a proposal was sent for his retirement service benefits, the third respondent recovered a sum of Rs.1,68,909/- from and out of his DCRG benefits by the communicated dated 03.01.2007 on the ground that he was paid in excess. Therefore, he filed writ petition before this Court in WP.No.27794 of 2010.

3. By an order dated 22.06.2012, this Court directed the respondents



W.P.No.10638 of 2022

to refund the recovered amount and pass a fresh order of re-fixation of his pension after giving opportunity of hearing. Accordingly, the third respondent had sent revised pension proposal to the fourth respondent and the Special Grade was modified to 10.08.2002 from 18.03.1992 on the ground that he was granted Special Grade wrongly on 18.03.1992 instead of 10.08.2002. According to the petitioner, it was fixed in accordance with GO.Ms.No.210 of Personnel and Administrative Reforms dated 11.03.1987. The respondents, ignoring GO.Ms.No.238 dated 26.06.1998 passed order on 01.07.2013. Therefore, it was challenged by the petitioner before this Court in WP.No.2489 of 2014. This Court, by order dated 15.12.2020, directed respondents 2 and 3 therein to give an opportunity to the petitioner and pass orders. Now, in view of the above, the petitioner submitted representation and the same was not considered and rejected by the fourth respondent.

4. On perusal of the records revealed that though the petitioner was granted Selection grade in the post of Secondary Grade Teacher on 18.03.1982, he was promoted as Tamil Pandit (BT Assistant) from 10.08.1982. Thereafter, he was promoted as PG Assistant from 16.08.2003. GO.Ms.No.210 dated 11.03.1987 allowed the employees of the Government of Tamilnadu to count



W.P.No.10638 of 2022

the services rendered in the Selection Grade of the lower post for the award of

Selection Grade in the promotional higher post provided that the Selection Grade scale of the lower post is identical to the Ordinary Grade of the higher post and the concession was allowed only at the first promotional level. GO.Ms.No.238 dated 26.06.1998 allowed the benefit of GO.Ms.No.210 to the BT Assistant / Tamil Pandit who were promoted from the post of Secondary Grade Teacher since an issue was raised stating that pay scale of Selection Grade Secondary Grade Teacher and Ordinary Grade BT Assistant/ Tamil Pandit could not be treated as identical as there is a difference in the increment rates. Since the scale of pay of the Selection Grade Secondary Grade Teacher and the Ordinary Grade Tamil Pandit are identical, the petitioner's service in the post of Selection Grade Secondary Grade Teacher from 18.03.1982 should be awarded Special Grade in the post of Tamil Pandit on 18.03.1992. Both the posts have become near-identical with effect from 01.06.1988 and prior to the said date, there were different scales of pay.

5. That apart, the service of 10 years would be counted only from 01.06.1988. However, since the petitioner was promoted to the post of Tamil Pandit as early as on 10.08.1982 itself, the question of applicability of



W.P.No.10638 of 2022

GO.Ms.No.210 and GO.Ms.No.238 does not arise. On completion of 10 years of service as Tamil Pandit, Grade he becomes eligible for award of Selection Grade on 10.08.1992 and Special Grade on 10.08.2002. Accordingly, pay last drawn was arrived at for the purpose of calculation of pensionary benefits. Therefore, Ordinary Grade Secondary Grade Teacher from 18.03.1972 and Ordinary Grade Tamil Pandit from 10.08.1992 cannot be combined together for calculating 20 years for the grant of Special Grade in the post of Tamil Pandit. Therefore, the claim of the petitioner for awarding of Special Grade in the post of Tamil Pandit on 18.03.1992 is not tenable.

6. Further, Government of Tamilnadu School Education Department issued GO.Ms.No.90 dated 09.05.2018 allowing scale of pay applicable to the Selection / Special Grade Primary School Headmasters to those Secondary Grade Teachers of the Higher Secondary Schools, who get Selection/Special Grade during the V Pay Commission period of 01.06.1988 to 31.12.1995. G.O.Ms.No.58 dated 24.07.2014 of Adidravida and Tribal Welfare Department awarded the scale of pay of the Selection /Special Grade Primary School Headmasters to the Secondary Grade Teachers working in the Higher School of the Adidravida Welfare Department provided they moved to the



W.P.No.10638 of 2022

Selection/Special Grade in the post of Secondary Grade Teacher during the V

Pay Commission for the period of 01.06.1988 to 31.12.1995. However, the petitioner was not holding the post of Selection Grade Secondary Grade Teacher during the period from 01.06.1988 to 31.12.1995. But the petitioner was promoted to the post of Tamil Pandit as early as on 10.08.1982. Therefore, his claim is untenable and the petitioner was in position of Special Grade Tamil Pandit on 10.08.2002. In pursuant to the order passed by this Court in WP.2489 of 2014, pensionary benefits were revised on 27.02.2019 on a last drawn pay Rs.9800 as Rs.9650 + PP 150 / granting notional increment as per GO.Ms.No.140 dated 25.04.2018. As such, the claim of the petitioner was rightly rejected by the fourth respondent and this Court finds no infirmity or illegality in the impugned orders. Therefore, the writ petition is lack of merits and the same is liable to be dismissed.

7. Accordingly, this writ petition is dismissed. There shall be no order as to costs.

09.01.2024

Index : Yes/No

Internet : Yes/No

Speaking order/non-speaking order
lok



WEB COPY



W.P.No.10638 of 2022

G.K.ILANTHIRAIYAN, J.

lok

To

1. Commissioner,
State of Tamilnadu,
Adi-dravidar Welfare Department,
Chepauk,
Chennai 600 005
2. The District Adi-dravidar and
Tribal Welfare Officer,
Vellore District,
Vellore
3. Headmaster,
Government Adi-dravidar Welfare
Boys Higher Secondary School,
Chevvapet,
Thiruvallur District,
PIN 602 025
4. Senior Deputy
Accountant General/Pension,
Union of India,
Accounts & Entitlements,
Tamilnadu,
Anna Salai,
Chennai 600 018

W.P.No.10638 of 2022

09.01.2024