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W.P.No.7586 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.7586 of 2015

Mahadevan

....Petitioner

Vs

1. The Secretary to School Education,
Secretariat Building,
Chennai – 600 009.

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

3. The District Elementary Education Officer,
Thirunelveli District.

4. The Additional Assistant Elementary Education Officer,
Melaneelitha Nallur,
Tirunelveli District.

....Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus calling for the record of the 3rd respondent vide Oo.Mu.M.5040/AA5/10 dated 18.02.2011 and quash the same as null and void as against the principles of natural justice and consequently directing the respondents to extend the privilege of preference and other benefits available under G.O.Ms.No.202 of School Education (G2) Department dated 24.09.2008 with reference to the final order in W.P.No.8092 of 8094 of 2009 dated 08.07.2013 as covered judgment for similarly placed persons seeking similar relief already given effect.



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For Petitioner : Mr.G.Thangavel
For Respondents : Mr.E.RRanganayaki
Additional Government Pleader

ORDER

This Writ Petition is filed to quash the order of the 3rd respondent dated 18.02.2011 and for a consequential direction to the respondent to extend the privilege of preference and other benefits available under G.O.Ms. No.202 of School Education (G2) Department dated 24.09.2008.

2. The petitioner has joined as a Junior Grade Teacher on 21.06.1965 and became a Secondary Grade Teacher with effect from 02.10.1973 and thereafter he was promoted as Primary School Head Master on 01.11.1978 at Ellapuram Elementary School and again transferred and posted as Secondary Grade Assistant Teacher on 12.08.1981. Thereafter he was awarded Selection Grade in the cadre of Secondary Grade Assistant Teacher on 02.10.1983 and subsequently awarded Special Grade in the cadre of Assistant Teacher on 02.10.1993. He was again promoted to the post of Primary School Head Master on 24.07.1998 and thereafter got superannuated on 31.05.2000.



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3. As the Government had passed G.O.Ms.No.202 dated 24.09.2008 of School Education (G-2) Department, by which the revision of pay structure was granted for Head Masters those who have worked on or before 01.06.1988 in the cadre of Secondary Grade has been specifically stipulated and the eligibility and entitlement of the privilege is extended only with effect from 01.06.1988 for revision of pay structure as payable with effect from the date of initial appointment in the cadre of Secondary Grade Head Master. Relying upon the various orders passed in favour of the similarly placed petitioners and since he had been admittedly appointed as Elementary School Head Master on 01.11.1978 and subsequently posted as Secondary Grade Assistant Teacher on 12.08.1981 prior to crucial date on 01.06.1988, seeking the benefits under G.O.Ms. No.202 dated 24.09.2008, petitioner made a representation dated 09.12.2009 which came to be rejected by the impugned order of the 3rd respondent dated 18.02.2011. Challenging the impugned order, petitioner preferred the present petition.

4. Mr. G.Thangavel, learned counsel appearing for the petitioner contended that, admittedly the petitioner had worked as the Primary School Head Master as on 01.11.1978 and thereafter he had been transferred and



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posted as Secondary Grade Assistant Teacher on 12.08.1981, as decided by this Hon'ble Court in several other Writ Petitions in respect of the similarly placed persons wherein the benefits granted under G.O.Ms. No.202 had been extended to the Teachers who had worked as Elementary School Head Masters prior to 01.06.1988, the same benefits ought to have been extended in favour of the petitioner, but however, the claim of the petitioner came to be rejected which is erroneous, thus he prayed for allowing this Writ Petition.

5. Per contra, Mrs. E.Ranganayaki, the learned Government Advocate by relying on the counter affidavit submitted that, G.O.Ms.No.202 is applicable only to the Teachers who had worked as Primary School Headmaster and transferred to other union in which they joined as Secondary Grade Assistant, but however petitioner since was working as Secondary Grade Assistant at the time of transfer to the other Panchayat Union and therefore he is not entitled to seek benefits under G.O.Ms. No.202.



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6. It is her further contention that, as per G.O.Ms. No.202, the period of service rendered as Head Master prior to 01.06.1988 can alone be taken into account for the award of Selection /Special Grade and since the petitioner was transferred to other Union and where he had also been promoted to the post of Head Master, he is not eligible for the benefits covered the G.O and sought for dismissal of the petition.

7. Heard the rival submissions and perused the materials available on record.

8. Admittedly the petitioner had joined in the services as a Junior Grade Teacher on 21.06.1965 and became a Secondary Grade Teacher with effect from 02.10.1973 and thereafter he was promoted as Primary School Head Master on 01.11.1978 at Ellapuram Elementary School. He was thereafter reverted and posted as Secondary Grade Assistant Teacher on 12.08.1981 and thereafter he was awarded Selection Grade in the cadre of Secondary Grade Teacher on 02.10.1983 and subsequently awarded Special Grade in the cadre of Secondary Grade Teacher on 02.10.1993. The petitioner was thereafter again promoted to the post of Primary School Head Master on 24.07.1998 and got superannuated on 31.05.2000.



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9. The claim of the petitioner for extending the benefits granted under G.O.Ms. No.202 dated 24.09.2008, for the persons who had worked as Primary School Head Master prior to 01.06.1988 was rejected, which is the subject matter of challenge in this writ petition. According to the petitioner since he worked as Primary School Head Master from 01.11.1978 to 11.08.1981 and there after was reverted as Secondary Grade Assistant only on 12.08.1981, he is entitled for the benefits of the G.O. No.202, since has had worked as Primary School Head Master prior to 01.06.1988.

10. In support of his contention, the learned counsel for the petitioner relied on the judgement of this Court in W.P.No.8092 to 8094 of 2009, wherein the learned Judge relying on the order passed by this Court in W.P(MD).No.10397 of 2009 dated 09.03.2010, allowed the writ petition, holding that the benefits of the G.O.Ms. No.202 has to be applied to the persons who are appointed and promoted as Elementary School Headmaster prior to 01.06.1988. The relevant portion is extracted hereunder:

“6. This Court does not find any substance in the above



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submission of the learned Government Pleader for the simple reason that after disposal of cases filed by similarly placed persons, there is no controversy now that the post of Elementary School Head Master was then kept on par with the Secondary Grade Teachers and that both the posts carried the same pay structure. In fact subsequent to GO. Ms. no.202 dated 24.09.2008, a number of writ petitions came to be filed by some teachers complaining that the benefit conferred by the GO was not extended to them. One such writ petition in W.P. (MD) No.10397 of 2009 dated 09.03.2010, after exhaustively dealing with the issue, a direction was issued to the authorities to extend the benefit. Relevant portions from the said Judgment are extracted hereunder,

6. It has been made clear in para 4 of the G.O.Ms. No.202 that the teachers, who were employed as Elementary School Headmasters after being transferred and worked as Secondary Grade Teachers in any union, they shall be deemed to have served as Elementary School Headmaster if they worked as Elementary School Headmaster prior to 01.06.1998. Therefore, as per the aforesaid paragraph, any teacher who worked as Elementary School Headmaster prior to 01.06.1998 and thereafter transferred and employed as Secondary Grade Teacher is eligible to the benefits of 5th Pay Commission for fixing the scale of pay.



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7. In this case, admittedly the petitioner was appointed and promoted as Elementary School Headmaster on 27.04.1978 and he worked as Elementary School Headmaster till 27.01.1981 and thereafter, transferred as Secondary Grade Teacher. Hence, the petitioner is entitled to invoke the benefits of G.O.Ms. No.202. Further, it is made clear in the said same paragraph that G.O.Ms.No.202 is applicable to all persons irrespective of the fact, whether they approached the Tribunal or not. Hence, according to me, as per the said G.O.Ms. No.202, the petitioner is eligible to the benefits of the special pay on the basis of the 5th Pay Commission.

8. Further, it has been stated in the impugned order that G.O.Ms. No.202, is applicable only to those persons, who were transferred either on administrative grounds or at their request and employed as Secondary Grade Teacher. In this case, admittedly, on 28.01.1981 due to administrative reasons, the petitioner was transferred as Secondary Grade Teacher and thereafter, at his request he was transferred to Kadaladi Panchayat Union school. Therefore, even according to the second respondent, G.O.Ms. No.202 can be made applicable to the petitioner. Hence, the petitioner is entitled to have the scale pay of fixed on the basis of 5th Pay Commission applicable to Elementary School Headmaster



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with effect from 01.06.1988 and the respondents are directed to fix the scale of pay to the petitioner counting the entire length of service in the cadre of Special Grade within a period of three months from the date of receipt of a copy of this order....

Following the said order, a batch of similarly writ petitions (in W.P. Nos. 28902 of 2010 etc.,) like ones this Court is now dealing with, were disposed of on 15.09.2011 and also one another writ petition in W.P. No.15999 of 2009 on 11.12.2012.

7. It is the admitted fact here that all the petitioners worked as Elementary School Head Masters prior to 01.06.1988 and their subsequent service in the capacity of Secondary Grade Assistant was on administrative reasons and at any rate, both the posts carried the same pay structure. In as much as the claim of the present petitioners also falls within the ambit of G.O. Ms. No.202 dated 24.09.2008 and their case is covered by the aforementioned earlier decisions of this Court in all four corners, this Court deems it fit to allow these writ petitions in the same lines.”

11. In the instant case, the respondents have stated in the counter affidavit that there is no entry in the Service Book of the petitioner regarding promotion as Head Master on 01.11.1978, which is not stated in



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the impugned order and in view of the settled proposition, the impugned order cannot be improved by filing counter. However even as per the counter affidavit, admittedly the petitioner worked in the post of Primary School Headmaster as on 01.04.1981 and thereafter reverted and posted as Secondary Grade Assistant Teacher on 12.08.1981.

12. The only reason adduced to reject the claim is that the petitioner was reverted from the post of Primary School Head Master to Senior Grade Assistant Teacher in the same Union and there after transferred to other union only from the post of Senior Grade Teacher and therefore will not be eligible for the benefits, is unacceptable and not in consonance with G.O.Ms. No. 202. Since admittedly the petitioner worked as Elementary School Head Master prior to 01.06.1988 and his subsequent service in the capacity of Senior Grade Assistant Teacher was on administrative reasons, the claim of the petitioner seeking benefits covered under G.O.No.202 is justifiable and squarely covered in view of the above referred decisions. Under such circumstances, this Court is inclined to set aside the impugned order.

13. Resultantly, this Writ Petition is allowed and the impugned order



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is hereby set aside. Consequently the respondents are directed to extend the benefits covered under G.O.Ms. No. 202, School Education (G2) Department dated 24.09.2008, to the petitioner and grant the benefits within a period of eight weeks from the date of receipt of copy of the order.

No costs.

30.08.2024

Index :Yes/No
Neutral Citation : Yes
Speaking order : Yes
Sma

To

1. The Secretary to School Education,
Secretariat Building,
Chennai – 600 009.
2. The Director of Elementary Education,
College Road, Chennai – 600 006.
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G.ARUL MURUGAN, J

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