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W.P.No.12901 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2024

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.12901 of 2021

Sivakamasundari

/vs/

...

Petitioner

1. The Secretary to Government,
Finance (Pay Cell) Department,
Fort St. George,
Chennai – 600 009.

2. The Secretary to Government,
Education Department,
Fort St. George,
Chennai – 600 009.

3. The Director of School Education,
Higher Secondary,
College Road, Chennai – 600 006.

4. The Chief Educational Officer,
Saidapet, Chennai – 08.

5. The District Educational Officer (South),
Egmore, Chennai – 08.

6. The Head Master,
Sri.RKM Saradha Vidhyalaya Girls Higher Secondary School,
T.Nagar, Chennai.

... Respondents



W.P.No.12901 of 2021

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records relating to the impugned order dated 02.01.2020 bearing No. Mu.Mu No 10247/A4/2019 issued by the fourth respondent and quash the same as illegal and consequently direct respondents 1 to 5 to extend the benefits of G.O.Ms.216 Finance (PC) Department dated 22.03.1993 in the light of the Hon'ble Full Bench of this Court order dated 09.12.2016 made in Rev. Application No.227 of 2015 etc., and accordingly award selection grade / Special Grade Scale of pay and revision of pensioner benefits within time limit.

For Petitioner ... Mr.R.Subburaj
For Respondents ... Mr. T.Rajendran
Additional Govt. Pleader

ORDER

This Writ Petition has been filed to call for the records relating to the impugned order dated 02.01.2020 bearing No. Mu.Mu.No 10247/A4/2019 issued by the fourth respondent and quash the same as illegal and consequently direct respondents 1 to 5 to extend the benefits of G.O.Ms.No.216 Finance (PC) Department dated 22.03.1993 in the light of the order of Full Bench of this Court dated 09.12.2016 made in Rev. Application No.227 of 2015 etc., and accordingly award selection grade /



W.P.No.12901 of 2021

Special Grade Scale of pay and revision of pensioner benefits within time limit.

2. The petitioner was originally appointed as Higher Grade Assistant on 25.08.1977 and he got promoted to Secondary Grade Assistant on 01.06.1978. The petitioner's selection grade fell on 01.06.1988. Originally the pay structure for both Primary School Head Master and Secondary Grade Assistant was one and the same. But, the identity got modified subsequently due to the introduction of 6th pay commission and thereafter the Primary School Headmaster got more pay than the Secondary Grade Teacher.

3. By following the objections raised by the Secondary Grade Assistants, the Government has issued order in G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993 to give selection grade pay for the Secondary Grade Teacher considering the non-availability of promotional avenues. However the said benefit was extended to those persons who have filed applications before the Tamil Nadu Administrative



Tribunal. Hence the Secondary Grade Teachers filed various Writ Petitions challenging the anomaly and subsequently, the dispute got settled through a Full Bench order dated 09.12.2016 made in Rev. Application No.227/2015 etc. in W.A.No.352/2014 wherein it is held as under:

“38. Today, when the matters are taken up for consideration, keeping in mind the financial strain that would fall on the State exchequer in the event of implementation of the G.O., and in order to give a quietus to the issue, we feel it appropriate to fix the date as 01.03.2017 from which date onwards, the Government shall calculate and revise the pension and family pension (without arrears) based on the revised scales of pay by implementing the G.O., for which, the learned Advocate General and the learned counsels appearing for the Teachers have fairly acceded to the same. Accordingly, we pass the following:

i) The Government is directed to implement the G.O.Ms. No.216, dated 22.3.1993 for the period between 1.6.1988 and 31.12.1995, on and from 1.3.2017 onwards in respect of all the Secondary Grade Teachers of High/Higher Secondary Schools including the Special Teachers who attained Selection grade/Special Grade during the above said period, on par with the pay scale of Primary School Headmasters;

ii) Consequently, the Government shall calculate and revise the pension of those who retired from service and revise the family pension in respect of those who expired, based on the revised scales of pay in terms of G.O.Ms. No.216, dated 22.3.1993 payable on and from 1.3.2017;

iii) It is made clear that the beneficiaries under this order, are not entitled to the arrears of revised pay scales;



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W.P.No.12901 of 2021

iv) It is further made clear that the benefits as directed above, shall be extended to the parties who are before this Court alone and no fresh Writ Petitions would be entertained on and from 09.12.2016,

v) The Government is directed to expedite the process of calculating and fixing the revised pension and family pension and we do hope that the Government will complete the same as early as possible without making any further delay,

vi) All the matters which are at SR stage and listed before this Court are also ordered and disposed of by this common order and consequently, connected MPs thereof, are ordered.”

4. By virtue of the said order, the benefit of G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993, should be given to all those persons who got their selection grade qualification between the period from 01.06.1988 to 31.12.1995. For those persons who have retired from service on the date when the judgment was passed, their pension shall be calculated based on the revised scales in terms of G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993 and monetary benefits will be payable on and from 01.03.2017. In fact, the Government has implemented the orders of the Court by way of issuing another Government Order in G.O.Ms.No.90, School Education Department dated 09.05.2018 by completely incorporating the directions of the Court.



W.P.No.12901 of 2021

5. The petitioner will fall under the category of Secondary Grade Assistant as on 01.06.1988. Though in the impugned order the fourth respondent has rightly stated the stipulations for applicability of benefit under G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993, in the body of the order, instead of relying on the date during which the petitioner got the selection grade in the post of Secondary Grade Assistant, the petitioner's date of regularization has been adopted and that had resulted in the rejection of petitioner's entitlement. In fact the order has been passed in compliance of the direction of the Court in W.P.No.3808 of 2015, etc., filed by the petitioner seeking direction to consider her request for awarding selection grade by extending the benefit of G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993.

6. Since the impugned order has been wrongly passed by taking into account of the date of regularization of the petitioner instead of date of attaining the selection grade in the post of Secondary Grade Assistant, the impugned order is liable to be set aside. The fourth respondent did not have any objection for the applicability of principles, G.O.Ms.No.216,



W.P.No.12901 of 2021

Finance (Pay Cell) Department, dated 22.03.1993 in terms of order in Rev.

Application No.227/2015 etc. in W.A.No.352/2014 and the subsequent Government Order issued in G.O.Ms.No.90, School Education Department, dated 09.05.2018.

7. Accordingly, this Writ Petition is allowed and the impugned order dated 02.01.2020 bearing No. Mu.Mu.No.10247/A4/2019 issued by the fourth respondent is hereby quashed and the respondents 1 to 5 are directed to extend the benefits of G.O.Ms.No.216 Finance (PC) Department dated 22.03.1993 in the light of the order of Full Bench of this Court dated 09.12.2016 made in Rev. Application No.227 of 2015 etc., and accordingly award selection grade / Special Grade Scale of pay and revision of pensioner benefits within a period of six weeks from the date of receipt of a copy of this order. No costs.

04.01.2024

Index: Yes / No
Speaking order / Non-speaking order
Neutral Citation: Yes / No
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W.P.No.12901 of 2021

R.N.MANJULA ,J.

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To:

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Finance (Pay Cell) Department,
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