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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.22838 of 2024

D.Malu Metilda

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by the Secretary,
School Education Department,
Secretariat, Chennai – 600 009.

2.The Director of School Education (Higher Secondary)
College Road, Nungambakkam,
Chennai – 600 006.

3.The Chief Education Officer,
Thiruvallur District,
Thiruvallur.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the 1st respondents to extend the benefit of G.O.(Ms)No.90, School Education 3 (1) department dated 09.05.2018, to the petitioner, and pay the scale to the petitioner, within a time frame fixed by this court.



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For Petitioner : Mr.G.Harshavarthan for
Mr.Sharath Chandran

For Respondents : Mrs.Mythraye Chandru
Special Government Pleader

ORDER

This writ petition has been filed for issue of writ of mandamus directing the 1st respondent to extend the benefit of G.O.(Ms)No.90, dated 09.05.2018 and to fix the scale of pay to the petitioner and pay the attendant benefits within the time frame fixed by this Court.

2.Heard Mr.G.Harshavarthan, learned counsel appearing on behalf of the petitioner and Mrs.S.Mythraye Chandru, learned Special Government Pleader appearing on behalf of the respondents.

3.The case of the petitioner is that she joined in the Secondary Grade post in the year 1985 at CSI Goudie Higher Secondary School, Tiruvallur. After putting in 30 years of service, she retired on 30.11.2015.



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4.The Government had issued G.O.Ms.No.216 dated 22.03.1993 and introduced uniform scale of pay for all the secondary grade teachers. In the strength of this Government Order, several persons started claiming for the special grade benefits and had approached this Court. Ultimately, the matter went before the Full Bench of this Court in ***Government of Tamil Nadu, represented by the Secretary, School Education Department vs. G.Eswaran and others*** reported in ***2017 1 CWC 561***. The Full Bench disposed of the case by issuing the following directions:

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



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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;

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 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;

5.The petitioner who joined the services in the year 1985 claims that she became entitled for selection grade of pay in the year 1995 and special grade in



the year 2005. Therefore, according to the petitioner her case is squarely covered by the judgment of the Full Bench. The petitioner made a representation in this regard on 21.11.2016. Since the same was not considered, the present writ petition has been filed before this Court seeking for appropriate directions.

6.The learned Special Government Pleader appearing on behalf of the respondent submitted that the present writ petition itself is not maintainable, since the petitioner has approached this Court at a very belated stage and that the Full Bench has already directed that no fresh writ petition should be entertained on and from 09.12.2016.

7.In the considered view of this Court, the Special Government Pleader has conveniently left out the first two directions that were issued by the Full Bench. It will be more relevant to take note of the first direction that was issued by the Full Bench which actually talks about the entitlement of persons to claim for selection grade/special grade pay. For all those persons who come within that category and satisfy the cut off date of 01.03.2017, those cases must also be considered and it is not necessary for those persons to come before this Court



and file writ petition to get the relief. The first direction was given to the Government to deal with all cases falling within the said category.

8. In view of the above, the representation made by the petitioner much before the cut off date on 21.11.2016 ought to have been considered by the 1st respondent in line with the Full Bench judgment. Since the same has not been considered, the petitioner cannot be left remedyless and therefore, the present writ petition filed by the petitioner is certainly maintainable. This Court reminds itself of the maxim *ubi jus ibi remedium* which means that where there is a right there should always be remedy.

9. In the light of the above discussion, there shall be a direction to the 1st respondent to deal with the representation made by the petitioner on 21.11.2016 on its own merits and in accordance with law and in line with the judgment of the Full Bench in Review Application No.227 of 2015 in W.A.No.352 of 2014 etc., dated 09.12.2016 and take a decision, within a period of eight weeks from the date of receipt of copy of this order. The petitioner is directed to make a fresh representation to the 1st respondent along with all the relevant documents and



also a copy of this order.

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10.This writ petition is disposed of with the above directions. No Costs.

12.08.2024

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
ssr

To

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N. ANAND VENKATESH, J.

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