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W.A.No.538 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2024

CORAM

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

W.A.No.538 of 2023

K.Vaithilingam

... Appellant

Vs.

- 1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Finance (Pay Cell) Department,
Secretariat, Fort St. George,
Chennai 600 009.
- 2.The State of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
Fort St.George,
Secretariat, Chennai 600 009.
- 3.The Director of School Education,
(Now Commissioner of School Education)
Higher Secondary,
DPI Compound,
College Road, Chennai 600 006.



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4.The Chief Educational Officer,
Thiruvarur District,
Thiruvarur.

5.The District Educational Officer,
Thiruvarur,
Thiruvarur District.

6.The Chief Educational Officer,
Nagapattinam,
Nagapattinam District.

7.The District Educational Officer,
Nagapattinam,
Nagapattinam District.

8.V.Rajagopalan

9.P.Shanmugavadivelu

10.M.G.Rajangam

11.S.Kalaivani

12.S.Dharmalingam

13.S.Chandrasekaran

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 18.11.2013 made in W.P.No.20304 of 2013 passed by this Court.

For Appellant : Mr.K.Karthikeyan

For Respondents : Mr.U.M.Ravichandran,
Special Government Pleader for R1 to R7



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JUDGMENT

(Judgment of the Court was delivered by R.Mahadevan,J.)

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The appellant herein is the seventh petitioner in a writ petition bearing No. 20304 of 2013, which was dismissed by a learned Judge, along with several other writ petitions, by a common order dated 18.11.2013, which is put to challenge in this writ appeal.

2. At the cost of verbosity, it is worth extracting paragraphs 2 to 4 of the order impugned in this writ appeal, which will give a bird's eye view of the issue involved in this case.

“2. The petitioners in all these petitions were Secondary Grade Teachers in the Government High Schools and Higher Secondary School. They are governed by the Tamil Nadu Educational Subordinate Service Rules and they are under the control of the Directorate of School Education. But, on completion of 10 years and 20 years of their service, they claim Selection Grade and Special Grade pay of Primary School Headmaster, while the Primary School Headmasters belong to a different service and governed by Tamil Nadu Elementary Education Subordinate Service Rules and they are under the control of the Directorate of Elementary Education.

3. According to the petitioners, as per G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993, they are entitled to Selection Grade and Special Grade pay of Primary School Headmasters. They heavily relied on the judgment of the Division Bench of this Court dated 14.07.2009 in W.P.No.8747 of 2009 confirming the order dated 07.10.1998 in O.A.No.8276 of 1997 of the Tamil Nadu Administrative Tribunal and also the order of the Apex Court dated 23.04.2010 in S.L.P.(CC)No.2746 of 2010 confirming the same. They also relied on



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various orders of this Court, which are all in terms of the aforesaid order of the Division Bench dated 14.07.2009 in W.P.No.8747 of 2009.

4. Therefore, in all these writ petitions, the issue that arises for consideration is as to whether G.O.Ms.No.216, Finance (PC) Department, dated 22.03.1993 grants the writ petitioners, who were Secondary Grade Teachers in the Government High Schools and Higher Secondary Schools, the Selection Grade and Special Grade pay of the Primary School Headmaster, on completion of 10 years and 20 years of service with effect from 01.06.1988.”

(emphasis supplied by us)

3. The sum and substance of the contention of the learned counsel for the appellant is that the issue involved herein has been taken upto the Supreme Court on two occasions, wherein, the validity of G.O.Ms. No.216, supra, has been upheld and hence, the appellant is entitled to be extended the benefit of the said Government Order. Placing reliance on the orders of this court passed in WP. No. 8747 of 2009 on 14.07.2009 which was affirmed by the Supreme Court *vide* order dated 23.04.2010 in SLP (CC) No.2746 of 2010, and in W.P.No.9759 of 2012 on 17.04.2012, which was affirmed *vide* judgment dated 22.08.2012 in WA No. 1566 of 2012, the learned counsel for the appellant submitted that similarly placed persons like the appellant herein, have been granted such relief and hence, the respondent authorities may be directed to consider the claim of the appellant, in the light of the aforesaid earlier orders of this court.



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4. Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the respondents fairly admitted that the validity of G.O.Ms.No.216, *supra*, has been upheld even by the Supreme Court. But, according to him, what is to be decided is whether the appellant comes within the purview of the said Government Order so as to be extended the benefit of the same.

5. Heard both sides and perused the materials available on record.

6. The relief sought in the writ petition was only for a mandamus directing the respondent authorities to consider the claim of the appellant seeking special grade in the post of Primary School Headmaster, by extending the benefit of G.O.Ms.No.216 School Education Department, dated 22.03.1993, in the light of the earlier orders adverted to in paragraph 3, *supra*. However, the learned Judge dismissed the said writ petition along with other writ petitions in the said batch, by the order impugned in this appeal.



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7. Considering the limited nature of the relief sought by the appellant and having regard to the submissions made by the learned counsel on either side, this court, without going into the merits of the case, directs the respondent authorities to consider the claim of the appellant and pass appropriate orders, purely on merits and in accordance with law and also in the light of the earlier orders as referred to above, within a period of eight weeks from the date of receipt of a copy of this judgment. It is made clear that such an order be passed by the respondent authorities, without being influenced by any of the observations made by the learned Judge in the writ petition.

8. This writ appeal stands disposed of, on the above terms. No costs.

[R.M.D.,J.] [M.S.Q.,J.]
11.03.2024

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/ No
shk/spp



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