



W.P.No. 29114 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.02.2024

PRONOUNCED ON : 29.04.2024

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.No. 29114 of 2017

and

W.M.P.No. 31372 of 2017

S. Dhandapani

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Represented by the Secretary to Government,
School Education Department,
Secretariat, Fort St. George, Chennai – 600 009.
- 2.The Director of School Education,
College Road, Nungambakkam, Chennai – 6.
- 3.The Chief Educational Officer,
Cuddalore, Cuddalore District.
- 4.The District Educational Officer,
Cuddalore, Cuddalore District.
- 5.The Head Master,
S.K. Velayutham (Aided) Higher Secondary School,
Kurinchipadi, Cuddalore District – 607 302.
- 6.The Accounts Officer (Pension)
The Office of the Principal Accountant General,
(Accounts and Entitlements),
361, Anna Salai, Chennai – 600 018.

... Respondents



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Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order in Pn24/3/12413174/Rn/ADK dated 19.08.2016 of the sixth respondent herein and quash the same and to direct the sixth respondent to sanction the revised pension proposals of the petitioner sent by the fourth respondent in his Letter No.9640/A4/15 dated 12.11.2015 in pursuance of the order of the Court in W.P.No.19889 of 2012 judgment dated 25.07.2012.

For Petitioner : Mr. K. Thennan

For Respondents : Mr. E. Vijay Anand, for R1 to R5
Additional Government Pleader
Ms. Hema Muralikrishnan, for R6
Senior Standing Counsel

ORDER

This Writ Petition has been filed to call for the records relating to the order in Pn24/3/12413174/Rn/ADK dated 19.08.2016 of the sixth respondent herein and quash the same and to direct the sixth respondent to sanction the revised pension proposals of the petitioner sent by the fourth respondent in his Letter No.9640/A4/15 dated 12.11.2015 in pursuance of the order of the Court in W.P.No.19889 of 2012 dated 25.07.2012.

2. The case of the petitioner is that he was initially appointed as Secondary Grade Teacher on 08.06.1961. He continued in the same post for more than 36 years



till 31.08.1997 without any promotion. The petitioner retired on 31.08.1997 upon attaining the age of superannuation. He served as Secondary Grade Assistant at S.K.Velayutham (Aided) Higher Secondary School, Kurinchipadi, Cuddalore District. He was awarded Selection grade in Secondary Grade Post from 01.04.1974 and awarded Special Grade in the post of Secondary Grade w.e.f. 08.06.1981. At the time of retirement, the petitioner was awarded only Special Grade Secondary Grade scale of pay.

3. It is further stated that there is no promotional avenue in the Special Rule for the Secondary Grade Assistant Teacher and the equivalent categories like Music Teacher, Craft Instructor, Drawing Master, Physical Education Teacher etc., are compelled to work in the same category till their retirement on superannuation by rendering service in the High Schools and Higher Secondary Schools. But in the Elementary Education, the same category of Secondary Grade Teachers are having the chances of getting promotion as “Elementary School Head Master” and “Middle School Head Master (Secondary Grade)” and thereby drawing higher start of pay and allowances in their service carrier.

4. Ultimately, the Government passed an order in G.O.Ms.No.216, Finance (Pay Cell) Department dated 22.03.1993 para 3 (ii) reads as follows: -



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In respect of Secondary Grade Teachers in High Schools there is no promotion post for them as on 28.03.1990 (i.e., the date of issue of the G.O. Second read above), although there is promotion post in Primary Schools. As a measure of uniformity in respect of all Secondary Grade Teachers, Government direct that the Teachers be made eligible for Selection / Special Grade as in Annexure – I to the G.O., second read above.

5. Since the benefit was not extended to the petitioner, he filed writ petition before this Court and this Court has directed the respondent to award the pay benefits on par with the Elementary School Head Master w.e.f. 01.06.1988 by following the said G.O.No.216, dated 22.03.1993.

6.As per the orders of this Court, the District Educational Officer sent the revised pension proposal to the Account Officer (Pension), office of the Principal Accountant General, Chennai. But the Accounts Officer rejected the said revised proposal of the petitioner, stating that the official name was not found in the G.O.Ms.No.181 and 69 Annexure list. Since the same has not been considered, the petitioner was constrained to approach this Court, seeking for appropriate direction.

7.Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 5 and the learned Senior



Standing counsel appearing for the sixth respondent and perused the material available on record.

8.The learned counsel for the petitioner submits that the petitioner was initially appointed as Secondary Grade Teacher on 08.06.1961 and he rendered 36 years of service in the same post and retired on 31.08.1997 on attaining the age of superannuation. He was granted selection grade on 01.04.1974 and special grade of pay on 08.06.1981. At the time of retirement, he was serving as Secondary Grade Assistant in the fifth respondent school. At the time of superannuation, he was awarded only special grade secondary grade scale of pay.

9. It is submitted that there is no promotional avenues for Secondary Grade Teachers and Vocational Instructors working in High Schools/ Higher Secondary Schools. Whereas, in Elementary Education, the same category of teachers have chances of getting promotion as Primary School Headmaster/Middle School Headmaster. Hence, the salary and allowances drawn by the Secondary Grade Teachers in Elementary Education are higher than the teachers in the similar category of teachers in High Schools/Higher Secondary Schools. In order to remove certain ambiguity in awarding selection grade/ special grade pay in respect of the



posts for which, there is no promotional opportunity, the Government issued G.O.Ms.No.216, dated 22.03.1993 introducing uniform scale of pay for all the secondary grade teachers. The Government decided to extend the benefits awarded to the Elementary School Headmasters scale of pay with effect from 01.06.1988 to the Secondary Grade Teachers and equivalent categories serving in the High School and the Higher Secondary Schools. As the said benefit was not extended to the petitioner, he filed a Writ Petition in WP.No.19889 of 2012. This Court, by order dated 25.07.2012, dispose of the said Writ Petition, directing the respondents to consider the individual representations of the petitioners dated 14.11.2010 and pay salary extending the benefits of G.O.Ms.no.216, Finance(PC) Department, dated 27.03.1993, GO Ms.No.270, Finance (PC) Department, dated 26.08.2010 and G.OMs.No.258, School Education (M1) Department dated 06.09.2010 in the light of the orders of the Division Bench in WP.No.8747 of 2009 dated 14.07.2009, confirmed by the Hon'ble Supreme Court of India in CC No.2746 of 2010 dated 23.04.2010 to the petitioners and revise their pensionary benefits and pay arrears within a period of four weeks from the date of receipt of a copy of the order.

10. For non-compliance of the said order, the petitioner filed Cont.P.No.3250 of 2013. The third respondent issued proceedings vide Na.Ka.No.1690/A3/2015



dated 20.01.2015, have extended the benefit of G.O.Ms.No.216, Finance Department, dated 22.03.1993 and fixed the pay scale on par with the Selection/Special Grade Elementary School Headmaster pay scale with effect from 01.06.1988 to 31.08.1997. Thereafter, the Contempt Petition was closed. The last pay drawn by the petitioner as on the date of retirement is Rs.8825/- in the pay scale of Rs.8000-275-13500/-. Based on the last pay drawn, the petitioner is eligible for revised pay being from 01.09.1997.

11. Thereafter, the fourth respondent vide his letter no.9640/A4/15 dated 12.11.2015 sent a revised pension proposal to the sixth respondent. But the sixth respondent has rejected the same vide his letter dated 19.08.2016 stating that as per G.O.Ms.no.216, the petitioner's name was not found in the G.O.No.181 and G.O.No.69 Annexure list. Aggrieved by the order passed by the sixth respondent dated 19.08.2016, the present Writ Petition has been filed.

12. The respondent nos.1 to 4 and 6 have filed their counter affidavits. In the counter affidavit filed by the respondents 1 to 4, it is stated that the Full Bench of this Court in Review Appln No.227 of 2015 in W.A.No.352 of 2014 etc., batch by order dated 09.12.2016, considered all the issues involved in relation to the said Government Order in G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.03.1993. As per the order of this Court in Review Appln.No.227 of 2015, the petitioner is eligible for the benefit under G.O.Ms.No.216 dated 22.03.1993,



irrespective of the official name in the G.O.No.181 and G.O Ms.No.69 Annexure list. The paragraph nos.9 and 10 of the counter affidavit are extracted hereunder:

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“9. As per the order of the Hon'ble Court in Rev.Appl. No.227 of 2015, the petitioner is eligible for the benefit under G.O 216 irrespective of the official name in the G.O.181 and G.O.69 Annexure list. The rejection order was passed by the 6th respondent on 19.08.2016, whereas the order passed by the Hon'ble Court in Rev Appl.No.227 of 2015 is on 09.12.2016. The Government has passed G.O (Ms) No.90, School Education 3(1) Department, dated 09.05.2018, by which the petitioner becomes fully eligible for the benefit under granted under G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.3.1993. There is a delay in implementing the order of the Hon'ble Court as clarifications was sought regarding the applicability of the said G.O to the teachers who attained promotion after attaining Selection Grade / Special Grade in between the period from 01.06.1988 to 31.12.1995.

10. It is humbly submitted that as per Government Letter (Ms).No. 113/SE3(1)/ 2022 dated 27.06.2022, the Principal Secretary has ordered the Commissioner of School Education to take necessary action to send the revised pension proposal as per G.O.(Ms) No.90, School Education 3(1) Department, dated 09.05.2018. Based on the same, the 4th respondent, District Educational Officer, Cuddalore has sent revised pension proposal to the 6th respondent through his proceedings vide Na.Ka.No. 268/A3/2024 dated 12.01.2024.”



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13. On a perusal of the averments made in the counter affidavit filed by the respondents 1 and 4, it appears that the 4th respondent has sent revised pension proposal to the sixth respondent through his proceedings vide Na.Ka.No.268/A3/2024 dated 12.01.2024 and it is pending with the sixth respondent. As per the stand of the respondents 1 to 4, now it is clear that the petitioner is eligible for the benefit under G.O.Ms.No.216, irrespective of the official name in the G.O.No.189 and G.O.No.69 Annexure list, as such the rejection order passed by the sixth respondent dated 19.08.2016 is unsustainable. Accordingly, it is liable to be set aside.

14. Accordingly, this Writ Petition is allowed with the following directions:

(i) The impugned order passed in Pen24/3/12413174/Rn/ADK dated 19.08.2016 of the sixth respondent is hereby quashed.

(ii) The sixth respondent is directed to sanction revised pension proposal of the petitioner sent by the fourth respondent on 12.01.2024, within a period of four weeks from the date of receipt of the copy of this order.

No costs

Consequently, connected miscellaneous petition is closed.

29.04.2024

Index : Yes/No

Neutral Citation : Yes/No

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To

1. The Government of Tamil Nadu,
Represented by the Secretary to Government,
School Education Department,
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BATTU DEVANAND, J.

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Pre-delivery Order made in
W.P.No. 29114 of 2017 and
W.M.P.No. 31372 of 2017

29.04.2024