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W.A.No.2213 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.A.No.2213 of 2021
and
CMP.No.14004 of 2021

1. The Director of Elementary Education,
Chennai - 6.
 2. The District Elementary Educational Officer,
Tirunelveli.
 3. The Assistant Elementary Educational Officer,
Charanmahadevi,
Tirunelveli District.
 4. The Additional Assistant Elementary Educational Officer,
Kalakkadu,
Tirunelveli District.
- ... Appellants

Vs.

1. D.Balrajmani
 2. CMS Evangelical Schools,
Represented by its Correspondent
- ... Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the



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order dated 19.12.2017 passed in W.P.No.2390 of 2004.

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For Appellants : Mr.E.Sundaram
Government Advocate

For Respondents : No appearance

J U D G M E N T

(Judgment of the Court was made by **S.M.SUBRAMANIAM, J.**)

The writ order dated 19.12.2017 passed in W.P.No.2390 of 2004 is sought to be assailed in the present writ petition.

2. The Director of Elementary Education is the appellant before us. The first respondent was initially appointed as Selection Grade Assistant Teacher in the Government Aided School on 01.03.1985. The post of Secondary Grade Teacher held by the petitioner from 01.03.1985 was converted as Head Master of Elementary School from 01.03.1990, as per the orders of the Director of School Education dated 31.10.2003. The said order was passed pursuant to the orders of the High court in W.P.No.3079 of 1996 dated 15.04.2002.

3. The claim of the first respondent was that he is eligible for



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Selection Grade in the post of Primary School Head Master. The Selection Grade Pay fixed in the post of Primary School Head Master was questioned.

In this regard, it is relevant to consider that prior to implementation of Fifth Pay Commission with effect effect 01.06.1988, the post of Secondary Grade Teacher and Primary School Head Master were carrying identical scale of pay and the posts were interchangeable. During implementation of the Fifth Pay commission, the scale of pay to the post of Primary School Head Master was enhanced to Rs.1400-2600 and to the post of Secondary Grade Teacher, it was fixed as Rs.1200-2040. Since the identical scale of pay prevailed prior to fifth Pay Commission was modified and higher scale of pay was fixed to the post of Primary School Head Master, it became necessary to grant Selection Grade to the employee that he must complete 10 years in the post of Primary School Head Master for award of Selection Grade.

4. The service particulars regarding the first respondent has been stated by the respondents in their counter affidavit filed in the writ petition, which would through clarity about the facts.

"The petitioner was absorbed as secondary grade teacher



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in the sanctioned post of secondary grade teacher post only from 01.03.1985. The post of secondary grade teacher held by the petitioner from 01.03.1985 was averted as headmaster of elementary school only from 01.03.1990 as per order of the first respondent in RC.No.37084/H2/1998 dated 31.10.2003 in view of orders dated 15.04.2002 of this Hon'ble Court made in W.P.No.3079/1996. Since the petitioner's secondary grade teacher post was converted as headmaster of elementary school only from 01.03.1990, the petitioner would complete 10 years of service and 20 years of service in the post of that headmaster only on 28.02.2000 and 28.02.2010 and he would be entitled for selection grade and special grade in the headmaster post of elementary school only on 01.03.2000 and 01.03.2010 respectively and not eligible for selection grade on 18.06.1990 in the headmaster post as wrongly argued by the petitioner. As the petitioner was appointed only w.e. from 01.03.1990. Since the petitioner was not holding the secondary grade teacher post on 01.03.1995, he is not entitled for secondary grade teacher category on 01.03.1995 similarly the petitioner had completed only 5 years of service in the headmaster post, he is not entitled for the award of selection



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grade in the headmaster post on 01.03.1995 before completing 10 years of service in the headmaster post. As per order dated 15.04.2002 made by this Hon'ble Court in WP.No.3079/1996, the post of secondary grade teacher held by the petitioner was converted as the post of headmaster of elementary school with effect from 01.03.1990 as proceedings of the first respondents in RC.No.37084/1 + 2/1998 dated 31.10.2003 and his pay was fixed in the said headmaster post on 01.03.1990 by the third respondent in his proceedings RC.No.1141/A1/2001 dated 31.03.2003. The petitioner was working as secondary grade teacher on 01.06.1988. Hence he was not entitled for fixation of pay in the ordinary grade on 01.06.1988 and for the award of selection grade on 01.06.1998 in the headmaster of elementary school."

5. The first respondent was aware of the fact that the post of secondary grade teacher was converted as elementary school head master only with effect from 01.03.1990. However, he claimed selection grade in the post of elementary school head master with effect from 01.06.1988. As on 01.06.1988, the first respondent was holding the post of secondary grade



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teacher. Therefore, the said services cannot be counted for the purpose of award of selection grade in the post of primary school head master. As per the Rules, the first respondent has to complete 10 years of service in the post of primary school head master for award of selection grade. Therefore, the appellants have clearly stated that the first respondent is eligible for selection grade in the post of elementary school head master on 01.03.2000 and special grade with effect from 01.03.2010.

6. The principle adopted by the appellants are in consonance with the pay commission recommendations. The benefit of selection grade and special grade were granted in order to eliminate the stagnation of employees in a particular post. Therefore, an employee who continue in service in the same post for 10 years, then alone the benefit of selection grade is to be awarded. Thus, the writ court has not considered the factual aspects with reference to the eligibility for award of selection grade as recommended by the Pay Commission and implemented by the Government. Contrarily, the writ court followed the earlier orders, which facts are also not made available in the writ order. Thus, we are inclined to interfere.



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7. Consequently, the writ order dated 19.12.2017 in W.P.No.2390 of 2004 is set aside and the writ appeal stands **allowed**. No costs.

Consequently, connected miscellaneous petition is closed.

[S.M.S., J.] [C.K., J.]

03.07.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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