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W.P.No.30797 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE BATTU DEVANAND

W.P.No.30797 of 2018

1.K.Punithavathi
2.R.Vijayalakshmi

...

PETITIONERS

Vs

- 1 State Of Tamil Nadu
Rep By Principal Secretary To Government
School Education Department,
Secretariat, Chennai-600 009.
- 2 The Director of Elementary Education,
Chennai -600 006.
- 3 The District Educational Officer,
Polur, Thiruvannamalai District.
- 4 The Assistant Elementary Educational Officer,
Polur, Thiruvannamalai District.
- 5 The Secretary to Government
Finance (PC) Department,
Secretariat, Chennai 600 009. ...

RESPONDENTS

PRAYER: The writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ of Certiorified Mandamus calling for the records of the 4th respondent relating to the order passed in Pro.Na.Ka.No.2607/A1/2017 dt.23.01.2018 to quash the same and to issue consequential directions to the respondents to grant the benefit of GO Ms.No.240 Finance (PC) Department dated 22.07.2013 by relaxing the stipulation of time limit of 6 months in their favour.



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For Petitioner ... Mr.P.Murali

For Respondents ... Mr.R.Neelakandan
Additional Advocate General
Assisted by Mr.A.M.Ayyadurai
Government Advocate

ORDER

The petitioners herein were initially appointed as 'Secondary Grade Teacher' in Polur Union, Tiruvannamalai District and thereafter, promoted to the post of Primary School Headmistresses. Thereafter, the 6th Pay Commission recommendations came to be implemented with effect from 01.01.2006 and accordingly, the Petitioners and other similarly placed persons were given opportunity to exercise their option to come over to the revised pay scales with effect from 01.01.2006. Accordingly, the Petitioners exercised the option in terms of G.O (Ms) No.234, Finance (Pay Cell) Department, dated 01.06.2009 and their pay was accordingly revised. It is thereafter the Government issued another order in G.O (Ms) No.240, Finance (Pay Cell) Department, dated 22.07.2013 giving an opportunity to exercise re-option to the employees who failed to exercise their option in terms of G.O (Ms) No.234 dated 01.06.2009. It is pursuant to the said Government Order dated



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22.07.2013, the petitioners herein claim to have submitted her option on 04.11.2016 requesting for re-fixation of her pay. The said claim made by the petitioners is rejected by the respondents by issuing the impugned order dated 23.01.2018. It is aggrieved by the said proceedings, the Petitioners approached this Court by filing the present Writ Petition.

2. No doubt, in the impugned order, the respondents have assigned reasons as non-submission of re-option by the Petitioners within the time stipulated under G.O (Ms) No.240 dated 22.07.2013 on the ground that there was no entry made in the Service Register of the Petitioners of having exercised any such re-option in terms of G.O (Ms) No.240 dated 22.07.2013. During the course of hearing and on persual of G.O (Ms) No.240 dated 22.07.2013, it is noticed that the right to exercise re-option in terms of the said Government Order is available only to the persons who failed to exercise their option in terms of G.O (Ms) No.234 dated 01.06.2009.



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3. From the counter-affidavit filed by the respondents and from other materials available on record, it is an admitted fact that the petitioners herein have exercised re-option in terms of G.O (Ms) No.234 dated 01.06.2009 and her pay is also revised accordingly. Once it is concluded that the petitioners have already exercised their option under G.O (Ms) No.234 dated 01.06.2009, the question of giving another opportunity to the petitioners in terms of G.O (Ms) No.240 dated 22.07.2013 does not arise. Therefore, even if the reason given in the impugned order is found to be incorrect, the consequential relief sought for in the present Writ Petition to act upon the re-option alleged to have been exercised by the petitioners did not arise for the above reasons.

4. Then coming to the contention of the petitioners that another person, who is similarly situated like the petitioners viz., J.K.Karthikeyan was given the benefit of above re-option in proceedings No.Na.Ka.No.8991/A1/2014 dated 14.08.2014 in terms of G.O (Ms) No.240 dated 22.07.2013 though he was also similarly placed like the petitioners and the petitioners are drawing a lesser pay than the said J.K.Karthikeyan is concerned, the petitioners are granted liberty to



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submit appropriate representation before the Respondent No.4 bringing to his notice about the grievance of the petitioners of drawing lesser pay than the said J.K.Karthikeyan. Further, in case if the petitioners have got any grievance in respect of any erroneous fixation of their pay pursuant to the option exercised by her in terms of G.O (Ms) No.234, it is also open to the petitioners to bring to the notice of the Respondent No.4. In case if the petitioners makes any such representation before the Respondent No.4, the Respondent No.4 shall consider the same within a period of six weeks from the date of receipt of a copy of this order and pass appropriate orders in accordance with law.

5. In the light of the above, this Court is not inclined to interfere with the impugned orders and accordingly, the Writ Petition is disposed of subject to the above observations. No costs. Connected Miscellaneous Petitions, if any shall stand closed.

Internet: Yes/No
Index: Yes/No
sms

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BATTU DEVANAND,J.

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