



W.P.(MD).No.5183 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.5183 of 2024

K.Ayyappan Thampi

...Petitioner

Vs

1.The State of Tamil Nadu,
Represented by its Secretary,
Education Department,
Fort St.George,
Chennai – 600 009.

2.The Director of School Education,
Chennai – 600 006.

3.The District Educational Officer,
Nagercoil,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Mandamus, directing the respondents to give the petitioner all the benefits, including pay and all other emoluments, Selection Grade, Special Grade and pension as Hindi Pandit Grade I with effect from the forenoon of 01.06.1964, which is the date of his approved appointment as Hindi Pandit Grade II in the then St.Joseph's High School, Aasaripallam, Kanyakumari District, with full qualification for appointment as Hindi Pandit Grade I, granting such



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further and other reliefs.

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For Petitioner : Mr.K.N.Thampi

For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

Heard Mr.K.N.Thampi, learned counsel for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader for the respondents.

2. This Writ Petition has been filed for issuance of Writ of Mandamus seeking direction against the respondents to give the petitioner all the benefits, including pay and all other emoluments, Selection Grade, Special Grade and pension as Hindi Pandit Grade I with effect from the forenoon of 01.06.1964, which is the date of his approved appointment as Hindi Pandit Grade II in the then St.Joseph's High School, Aasaripallam, Kanyakumari District, with full qualification for appointment as Hindi Pandit Grade I, granting such further and other reliefs.



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3. Mr.K.N.Thampi, learned counsel for the petitioner submitted that after the abolition of Hindi and introduction of two languages for the Schools in Tamil Nadu, those Hindi Pandits who have been working as Grade-II Hindi Pandits have been observed as Secondary Grade Teachers along with Grade-I Hindi Pandit. The grievance of the petitioner is that he is continued to be paid with the salary of Grade-II Hindi Pandit, which is not on par with the other similarly placed persons. He had been working as Secondary Grade Teacher till his retirement that is on 31.05.1998. In this regard, the petitioner made a representation dated 21.12.2023 to the second respondent through proper channel requesting them to grant the benefits of Hindi Pandit Grade-I. Since no action was taken, the petitioner has come before this Court by way of filing this Writ Petition.

4. Attention was drawn to the earlier judgment of this Court in W.P.(MD).No.23365 of 2016 dated 07.08.2023, wherein it is held as under:

“12. Having considered the facts and circumstances of the case, admittedly, the issue arises in the present writ petition is no longer res integra and already a learned Single Judge of this Court allowed the writ petitions as



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stated supra. The relevant paragraphs of order dated 03.04.2009 in W.P.(MD) No.43235 of 2006 are extracted hereinunder:

“3. It is brought to my notice by the learned counsel appearing for the petitioners that in O.A.Nos.282, 283 and 3441 of 1993 (A.Ilangovan Vs. The Director of Elementary Educational and others), the Hon'ble Tamilnadu Administrative Tribunal, while considering a similar matter passed the following order:

“Indeed, there cannot be any intelligible difference between the Secondary Grade Certificate holders served in the Higher Grade place after 1.1.71 or prior to 1.1.71. This is the well settled principle in a catena of decisions of the Supreme Court. It has been held by the Supreme Court in a decision reported in Vo.II SC SLJ 498 that equality of opportunity for the purposes of seniority, promotion and like matters of employment is available only for persons who fall subsequently within the same class or unit of service. The fundament right of equality means that person in like situation under like circumstance are entitled to be treated alike. What is enjoined is that all citizens in matter of service under the State shall be treated alike under like circumstances and conditions. The primary aim is to prevent any person or class of



persons from being singled out as a special subject for purposeful or individuals discrimination or hostile treatment. The purpose is to ensure similarly and equitable treatment and identity of treatment in matters relating to initial engagement, during continuance of that enjoyment and at the terminal end of that enjoyment. This principle has been laid down in the decision reported in A.I.R. 1957 PAT 617, AIR 1962 SC 36.

The pivotal question in the present case is whether the teacher similarly circumstanced in the same class or service or unit are treated alike. The factual position is that the teachers similarly situated in the same class category and unit are treated unequally. In other words, the equals are treated as unequals. Therefore, the question of hostile discrimination will arise. Moreover, in the instant case, fixing the cut off date as 1.1.71 itself is arbitrary and unreasonable in view of the decisions reported in 1988 (2) CAT 250 and 1988 (3) SLJ 53.

When the Secondary grade qualified teacher service period in the place of Higher Grade is treated as Secondary Grade from 1.1.71 the same should also be extended to the Secondary Grade qualified teacher serving in the Higher grade prior to 1.1.71 also. Otherwise the same would amount to clear discrimination.



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In the facts and circumstances of the case, the applications are allowed and we direct the respondents to grant secondary grade scale of pay to the applicants for the period of service of the applicants in the Higher Grade place with the secondary Grade qualification and it be counted as Secondary Grade service for the purpose of seniority, selection/special grade and for promotional opportunities to the higher post. All consequential service and monetary benefits shall be made within two months from the date of receipt of this order of a copy thereof.”

4. The learned Additional Government Pleader submitted that no appeal had been preferred against the said order. In view of the said fact, the learned counsel appearing for the petitioners strenuously contended that the judgment rendered by the Tribunal in the above case covers the case of the petitioners also. The learned Additional Government Pleader appearing for the respondents is unable to dispute the same.

5. In view of the said facts and circumstances, I am inclined to grant the relief as prayed for by the petitioners. The writ petition stands allowed. No costs. The first respondent shall settle all the monetary benefits to the petitioners within eight weeks from the date of receipt of copy of this order.



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No costs."

13. Paragraph No.6 of order dated 27.01.2010 in W.P. (MD) No. 34213 of 2006 reads as hereinunder:

"6.The learned Government Advocate submits that the writ petition filed by the similarly situation persons were allowed by this Court and the orders were also implemented. Hence, the writ petition is allowed as prayed for and direction is issued to the respondents to regularise the service of the petitioners as Secondary Grade Teacher from the date of their initial appointment and accordingly to award Selection Grad. The respondents are directed to complete the exercises within twelve weeks from the date of receipt of a copy of this order."

14. There is no dispute that these two orders of this Court have become final and the respondents therein implemented the said orders. As such, this Court has no different opinion to follow the said orders in toto.

15. For the afore stated reasons, this Writ Petition is allowed as prayed for with the following directions:

i. The respondents are directed to regularise the services of the petitioners as Secondary Grade Teachers from the date of their initial appointment as Elementary Grade Teachers and accordingly, to award Selection Grade and Special Grade with all consequential benefits.;

ii. The respondents are directed to complete the exercise within a period of six weeks from the date of receipt of a copy of this order;



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and iii. No costs."

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5. Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents submitted that the petitioner has filed this Writ Petition after 30 years, is clearly affected by delay and latches.

6. However, it is true that the petition has been filed after delay of 30 years. Considering the earlier judicial pronouncements, the same may be considered on merits of the representation and then pass orders.

7. In view of the same, this Writ Petition is **disposed of** with a direction to the respondents to consider the petitioner's representation dated 21.12.2023 and pass orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. No costs.

11.07.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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To:

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The State of Tamil Nadu,
Education Department,
Fort St.George,
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- 2.The Director of School Education,
Chennai – 600 006.
- 3.The District Educational Officer,
Nagercoil,
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R.N.MANJULA, J.

Nsr

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