



W.P.(MD)Nos.10189 of 2023 and batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)Nos.10189 to 10195, 10197, 10198,
10820, 10807 to 10812 of 2023
and
W.M.P.(MD).Nos.18894 & 9494 of 2023

W.P.(MD).No.10189 of 2023

M.Krishnamoorthy

... Petitioner

Vs.

- 1.The Government of Tamil Nadu
Represented by the Secretary,
School Education Department,
Fort St.George,
Chennai-600 009.
- 2.The Additional Chief Secretary to the
Government of Tamil Nadu,
Social Welfare and
Women Empowerment (SW.5(1) Department,
(Social Defence),
Fort St.George,
Chennai-600 009.
- 3.The Director of Social Defence,
Department of Social Defence,
No.300, Purasaivakkam High Road,
Kellys, Chennai-600 010.



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4.The Joint Director of Social Defence,
Department of Social Defence,
No.300, Purasaivakkam High Road,
Kellys, Chennai-600 010.

5.The Superintendent,
Government Children's Home,
Thanjavur-613 007.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to extend the benefits of the G.O.(Ms).No.216, Finance and Pay Cell Department, dated 22.03.1993 to the petitioner on the basis of the petitioner's representation dated 06.03.2021.

For Petitioner : Mr.C.Gangai Amaran

For Respondents : Mr.T.Amjadkhan,
Government Advocate

COMMON ORDER

Heard Mr.C.Gangai Amaran, learned counsel appearing for the petitioners and Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents.

2. W.P.(MD).Nos.10189 to 10195, 10197, 10198 and 10820 of 2023 have been filed seeking a direction to the respondents to extend the benefits of the Government Order in G.O.(Ms).No.216, Finance and Pay Cell Department,



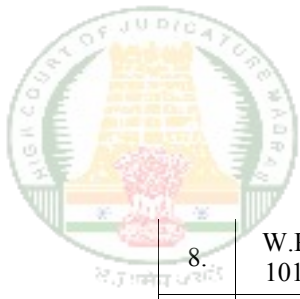
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dated 22.03.1993, to the petitioners on the basis of the petitioners' representations dated 06.03.2021, 05.03.2021, 16.03.2021, 06.03.2021, 16.03.2021, 16.03.2021, 16.03.2021, 05.03.2021 and 05.03.2021 respectively.

3. W.P.(MD).Nos.10807 to 10812 of 2023 have been filed challenging the impugned orders passed by the Joint Director of Social Defence and consequently direct the respondents to extend the benefits of the Government Order in G.O.(Ms).No.216, Finance and Pay Cell Department, dated 22.03.1993, to the petitioners.

4. The petitioners joined in various posts in various Schools and their service particulars are as follows:

Sl. No.	Writ Petitions	Name of the petitioner	Date of Appointment	Date of Selection Grade	Dater of Special Grade Pay	Date of Retirement
1.	W.P.(MD).No. 10189 of 2023	M.Krishnamoorthy	25.07.1975	25.07.1985	25.07.1995	31.05.2006
2.	W.P.(MD).No. 10190 of 2023	K.Vasugi	17.11.1986	17.11.1996	18.11.2006	31.07.2016
3.	W.P.(MD).No. 10191 of 2023	N.Jeyaraj	04.06.1981	04.06.1991	04.06.2001	30.06.2010
4.	W.P.(MD).No. 10192 of 2023	D.Richard	26.11.1981	26.11.1991	26.11.2001	30.09.2008
5.	W.P.(MD).No. 10193 of 2023	Karuppaiah	01.09.1981	01.09.1991	01.09.2001	30.06.2015
6.	W.P.(MD).No. 10194 of 2023	G.Natarajan	06.01.1983	06.01.1993	06.01.2003	31.12.2013
7.	W.P.(MD).No. 10195 of 2023	K.Muthumani	02.01.1979	02.01.1989	02.01.1999	30.04.2005



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8.	W.P.(MD).No. 10197 of 2023	T.K.Pattammal	24.01.1978	24.01.1988	24.01.1998	31.10.2002
9.	W.P.(MD).No. 10198 of 2023	P.Pakkirisamy	11.09.1967	11.09.1977	11.09.1987	30.05.2002
10.	W.P.(MD).No. 10807 of 2023	R.Ezhilarasu	30.09.1978	30.09.1998	30.09.1998	30.06.2015
11.	W.P.(MD).No. 10808 of 2023	S.Rajendran	18.06.1991	18.06.2001	18.06.2011	31.05.2013
12.	W.P.(MD).No. 10809 of 2023	K.Sardhar	02.06.1969	02.06.1979	02.06.1989	31.08.2002
13.	W.P.(MD).No. 10810 of 2023	P.Chandra	03.12.1980	03.12.1990	03.12.2000	30.09.2010
14.	W.P.(MD).No. 10811 of 2023	P.Ganesan	02.07.1985	02.07.1995	02.07.2005	30.06.2015
15.	W.P.(MD).No. 10812 of 2023	VK.Rajendran	12.07.1985	12.07.1995	12.07.2005	31.05.2017
16.	W.P.(MD).No. 10820 of 2023	R.Amirthavalli	06.01.1983	06.01.1993	06.01.2003	31.12.2008

5. These petitioners have been appointed during the period of 1967 to 1986 as Secondary Grade Teacher, Mat Weieving Instructor, Binding Instructor, PET Teacher, Police Band Training, Carpentry Instructor, Office Assistant and Tailoring Instructor. On completion of ten years, they are entitled to get selection grade and thereafter, on completion of another ten years, they are awarded Special Grade pay. This is based on the recommendation of V Pay Commission. While disbursing the Selection / Special Grade Pay, the Government granted separate scale of pay of Rs.1400-2600 for Headmasters in Primary Schools and the scale of pay for Secondary Grade Teachers was allowed to Rs.1200-2040. This disparity had caused prejudice to the Secondary Grade Teachers.



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6. In view of the various representation made, the Government has passed the Government Order in G.O.(Ms).No.216, Finance and Pay Cell Department, dated 22.03.1993, introducing uniform scale of pay for all the Secondary Grade Teachers. One N.Govindarajan filed an Original Application before the Tamil Nadu Administrative Tribunal for claiming benefits under the Government Order in G.O.(Ms).No.216, Finance and Pay Cell Department, dated 22.03.1993 and by order dated 07.10.1998, the Tribunal allowed the Original Application and gave a direction to the authorities to fix the scale of pay in terms of the Government Order in G.O.(Ms).No.216, Finance and Pay Cell Department, dated 22.03.1993. After a lapse of nearly nine years, the Government has filed a Writ Petition before this Court in W.P.No.8747 of 2009 challenging the correctness of the order passed by the Tribunal. By order, dated 14.07.2009, this Court dismissed the Writ Petition on the ground of delay and laches with costs of Rs.10,000/- and this Court directed the Government authorities to comply with the order of the Tribunal. Aggrieved over the same, the Government has filed SLP (Civil) C.C.No.2746 of 2010 before the Hon'ble Supreme Court and the same was also dismissed. Consequently, the Government was constrained to pass G.O.(Ms).No.258, dated 06.09.2010 for granting relief to the above said individual, viz., N.Govindarajan, who had filed the petition before the Tamil Nadu Administrative Tribunal. Various



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Government Orders and amendments came to be passed subsequently in view of

many litigations filed in this regard. Finally, the Full Bench of the High Court in the case of ***Government of Tamil Nadu vs. G.Eswaran*** reported in **2017 2 MLJ 257** granted relief to one individual and directed the State Government to revise the pension for those who retired from service and revised the family pension in respect to those, who expired, based on the revised scale of pay in terms of the Government Order in G.O.(Ms).No.216, Finance and Pay Cell Department, dated 22.03.1993 payable on or before 01.03.2017.

7. Subsequent Government Orders have been passed for complying the orders of this Court by issuance of the Government Order in G.O.(Ms).No.90, dated 09.05.2018 and vide Letter No.4636/SANA.8(2)/2018-5, dated 08.07.2020. Since the petitioners are also the beneficiaries of the above said judgment, they have filed these Writ Petitions to consider their request for revision of the pensionary benefits in terms of the Government Order in G.O. (Ms).No.216, Finance and Pay Cell Department, dated 22.03.1993

8. Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents submitted that in the Full Bench Judgment itself, the cut off date has been fixed as 09.12.2016 and further stated that, no fresh Writ Petition



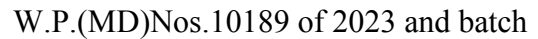
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would be entertained from 09.12.2016. However, the Government while reintroducing Selection Grade / Special Grade with improved scale of pay and issued G.O.(Ms).No.304, Finance (Pay Commission) Department, dated 28.03.1990, permitting Selection Grade pay and Special Grade pay to all intermediate teachers, who are working in Higher Secondary Schools.

9. However, in a Writ Appeal filed before this Court in W.A.No.3290 of 2019, the Division Bench of this Court has passed an order on 23.09.2019 and held that when a particular set of employees are given relief by the Court, all other identically situated persons should be treated alike by extending the same benefit, as not doing so would amount to discrimination and be violative of Article 14 of the Constitution of India. The relevant portions in the said judgment are extracted hereunder:

“11. It is held therein that when a particular set of employees is given relief by Court, all other identically identically situated persons should be treated alike by extending the same benefit, since not doing so would mean amount to discrimination and be violative of Article 14 of the Constitution of India.

12. In the light of the above discussion and decisions considered, appellant is entitled to the relief granted at Paragraph No.38 of the order of the Hon'ble Full Bench in Government of Tamil Nadu Vs. G.Eswaran, reported in 2017 (1) CWC 561 and benefit of



09.05.2018.”

11. In the result,

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(ii). W.P.(MD).Nos.10807 to 10812 of 2023 stand **allowed** and the impugned orders passed by the Joint Director of Social Defence, dated, 03.09.2021, 12.04.2021, 25.03.2021, 13.09.2021, 13.09.2021 and 13.09.2021 are quashed and the petitioners are directed to submit a fresh representation before the respondents within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondents are directed to consider the same and pass appropriate orders on merits and in accordance with law in the light of the above observations within a period of four weeks thereafter.

(iii) No costs. Consequently, connected miscellaneous petitions are closed.

26.07.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
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To

- 1.The Secretary
the Government of Tamil Nadu,
School Education Department,
Fort St.George,
Chennai-600 009.
- 2.The Additional Chief Secretary to the
Government of Tamil Nadu,
Social Welfare and
Women Empowerment (SW.5(1) Department,
(Social Defence),
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R.N.MANJULA, J.

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Common Order made in
W.P.(MD)Nos.10189 to 10195,
10197, 10198, 10820, 10807 to 10812 of 2023

26.07.2024