



W.A(MD)No.995 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2024

CORAM

**JUSTICE N. SESHASAYEE
and
JUSTICE P.VADAMALAI**

W.A(MD) No.995 of 2020
and
C.M.P(MD)No.5362 of 2020

- 1.The Director of Elementary Education,
DPI Complex, College Road,
Nungambakkam, Chennai.
- 2.The District Elementary Educational Officer,
Thirunelveli District, Thirunelveli.
- 3.The District Elementary Educational Officer,
Kadayanallur, Thirunelveli District. ... Appellants/Respondents 2 to 4

Vs.

- 1.R.Muthaiah ... 1st respondent/writ petitioner
- 2.The Accountant General,
Officer of the Accountant General,
No.361, Anna Salai, Chennai 600 018.
... 2nd respondent/1st respondent

Prayer: Appeal filed under Clause 15 of the Letters Patent, against the order



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dated 20.01.2020 passed in W.P(MD)No.4308 of 2015.

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For Appellants :Mr.D.Sadiq Raja,
Additional Government Pleader

For R-1 :Mr.M.Thirunavukkarasu

For R-2 :Mr.P.Gunasekaran

JUDGMENT

(Judgment of the Court was delivered by N.Seshasayee, J.)

This appeal is preferred by the respondents 2 to 4 in W.P.(MD)No.4308 of 2015 challenging an order of a learned Single Judge which literally extended the application of G.O.Ms.No.202, School Education (G2) Department, dated 24.09.2008.

2. The brief facts are:

- a) The first respondent herein was working as a Headmaster in a Panchayat Union Primary School between 01.10.1972 and 02.06.1981 and on 03.06.1981, he resigned his job and on the very next day, he joined certain aided private school as a Secondary Grade Teacher. He eventually was relieved from his services on 30.11.2002 on his offering



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to opt for voluntary retirement. Some ten years thereafter, he approached the authorities with a request to extend the benefit under G.O.Ms.No.202, School Education (G2) Department, dated 24.09.2008, to him. This was rejected by the authorities vide their proceedings dated 20.06.2013 and it was promptly challenged by the first respondent in W.P(MD)No.4308 of 2015.

b) The learned Single Judge vide her order, dated 20.01.2020, allowed the writ petition. The line of reasoning of the learned Single Judge was essentially influenced by an order of this Court in W.P(MD)No.23975 to 23980 of 2012 batch, dated 04.09.2011 as well as the order in W.P.(MD)No.11190 of 2009, dated 22.08.2014. This order is now under challenge.

3. The learned Additional Government Pleader made two pointed submissions:

i. That the order passed in W.P(MD)Nos.23975 to 23980 of 2012 batch of cases does not deal with extending the benefit under G.O.Ms.No.202 to any aided private schools. It essentially deals with a situation as to whether any differential treatment must be accorded to



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those Teachers who voluntarily opted to be transferred from the post of Headmaster of a Primary School of a Panchayat Union to the post of Secondary Grade Teacher of some other Panchayat Union school within the same Union or to any such Headmaster transferred on administrative reason and posted as a Secondary Grade Teacher within the same Union.

- ii. Developing his argument on the second leg of his contention, the learned Additional Government Pleader submitted that in the order in W.P(MD)No.11190 of 2009, the learned Single Judge has held that inasmuch there is no express bar prohibiting the application of G.O.Ms. 202, to private aided school, it could be applied and insofar as the order in W.P(MD)No.11190 of 2009 is concerned, the learned Single Judge, in that case has tried to read something which is not evident in G.O.Ms.No. 202. Any Government Order must be read for what it says and what is not so said cannot be read.

4. The learned counsel for the first respondent adopted the same line of reasoning of the learned Single Judge for his submission. He in essence said the line of reasoning in W.P(MD)No.11190 of 2009.



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5. Rival submissions are carefully examined. There is some merit in the observation of the learned Single Judge in W.P(MD)No.11190 of 2009 where the Court observed that there is no disparity in the pay scale of a Teacher in an aided private school as well as those who are working in Panchayat Union school. However, this has to be borne in mind that so far as the private schools are concerned unless they are corporate schools, there is hardly any need for inter-school transfers, whereas in the case of schools run by a Panchayat Union, there could be more than one primary schools within the Panchayat Union and there may arise a need for transfer of Headmaster of a primary school to a post of Secondary Grade Teacher in any other primary school within the same Union since both the Headmaster as well as Secondary Grade Teacher shared equal cadre and this was the scenario till 31.05.1988 and it may be noted that subsequent to this date, the 5th Pay Commission came into existence which placed the Headmaster at a higher position on the higher scale of pay and reducing the Secondary Grade Teacher as a feeder category to the Post of Headmaster. This anomaly was later rectified. But, this Court is not concerned with the same in this case. Therefore, contextual setting of the Government to come out with the Government Order cannot be ignored and this aspect apparently has been overlooked by the learned Single Judge.



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6. The conclusion therefore is well written on the wall. This Court deems it appropriate to interfere with the order of the learned Single Judge. Accordingly, this writ appeal is allowed and the order of the learned Single Judge dated 20.01.2020 made in W.P(MD)No.4308 of 2015, is set aside. No Costs. Consequently, connected Miscellaneous Petition is closed.

(N.S.S., J.) (P.V.M., J.)
09.07.2024

NCC : Yes/No
Index : Yes/No

PM

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