



W.A(MD)No.93 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2024

CORAM

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

W.A(MD) No.93 of 2014
and
M.P(MD)No.1 of 2014

- 01.The State of Tamil Nadu, ... Appellant/Petitioner
Rep. by its Secretary,
Department of School Education,
St. George Fort, Chennai – 600 006.
- 02.The Director of Elementary Education,
College Road,
Chennai – 600 006.
- 03.The District Elementary Educational Officer,
Virudhunagar,
Virudhunagar District.
- 04.The Assistant Elementary Educational Officer,
Sattur,
Virudhunagar District. ... Appellants/Respondents

Vs.



W.A(MD)No.93 of 2014

G.Shanmugam(died)

... Respondent/writ petitioner

- 1.S.Manimegalai
2.Shankari
3.Nagadevi
4.Nagasoniya

....Respondents/Respondents

(Respondents 1 to 4/LRs of the deceased sole respondent are substituted in the place of the deceased sole respondent vide Court order dated 22.09.2023 made in C.M.P(MD)No.11642 of 2023 in W.A(MD)No.93 of 2014 by ASMJ & RVJ)

Prayer: Appeal filed under Clause 15 of the Letters Patent, against the order dated 03.01.2013 in W.P(MD)No.2308 of 2010.

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

For Respondents : Mr.K.Ragatheesh Kumar for
M/s.Isaac Chamber

JUDGMENT

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

This writ appeal is preferred by the respondents in W.P(MD)No.2308 of 2010 challenging the order of a learned Single Judge, dated 03.01.2013.



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2. The prayer sought by the writ petitioner is to sanction and award the Special Grade Pay to the writ petitioner to the Post of Middle School (BT) Headmaster to which the writ petitioner is entitled to with effect from 01.06.1998 in terms of G.O.Ms.No.210 (School Education (G-1) Department, dated 14.08.2009. The writ petition is allowed by the learned Single Judge as indicated earlier.

3. The entire dispute and the line of reasoning and the conclusion arrived thereunder are well captured in the short order of the learned Single Judge and this Court chooses to reproduce the same for the sake of convenience.

'The petitioner joined service as Selection Grade Teacher on 08.08.1963 and he was placed on Selection Grade pay with effect from 01.04.1974. He acquired B.Ed. degree on 08.09.1980. He was awarded Special Grade of pay on 08.08.1983 and become eligible for promotion as Middle School (BT) Headmaster. He was promoted as Middle School (BT) Headmaster on 20.11.1987. He was awarded with Selection Grade in the Middle School (BT) Headmaster cadre on 20.11.1997. He retired from service on 31.05.2002 on attaining the age of superannuation.



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Prior to 01.10.1970, the post of Secondary Grade Teacher, Primary School Headmaster and Middle School Headmaster were all equal in rank bearing the same scale of pay. In 1971, when the Government implemented the Tamilnadu Revised Scale of Pay Rules, separate scale of pay was fixed for the post of Headmaster Middle School with effect from 02.10.1970 and thus, two separate cadres namely Secondary Grade Middle School Headmaster and Middle School Headmaster came in to existence. After 01.10.1979, B.T. Grade Middle School Headmaster was introduced with an additional qualification of B.T/B.Ed/Tamil Pulavar with a higher scale of pay that of Secondary Grade Middle School Headmaster. As per the Special Rules for the Tamilnadu Elementary Education Subordinate Service Rules, issued vide G.O.Ms.No.1383, Education PUS-I Department, dated 23.08.1988, the B.T. Grade Middle School Headmaster were placed under Class-I and Category – I having the highest scale of pay in Elementary Education up to the V Pay Commission.

2. According to the petitioner, the first respondent State Government gave effect to the order of the Tribunal vide G.O.Ms.No.210(School Education (G-1) Department, dated 14.08.2009 awarding Special Grade of pay to those



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Headmasters from 01.06.1998. However, the G.O., said that the benefit would be extended only to those 65 persons who has filed cases before the Tamilnadu Administrative Tribunal, which culminated in the said Government Order. Thus, the benefit of G.O.Ms.No.210 was not extended to the petitioner. Therefore, the petitioner has come up with this writ petition.

3. When a similarly placed person filed writ petition, this Court has directed the Government to extend the benefit of G.O.Ms.No.10(School Education (G-1) Department, dated 14.08.2009 to such similarly placed persons as well (vide order in W.P.No.16001 of 2010, dated 29.10.2011)0.

4. In view of the above settled position, in my considered opinion, since the petitioner is also similarly placed, he is entitled for the benefit of G.O.Ms.No.210 (School Education (G-1) Department, dated 14.08.2009.

4. Heard both sides. This Court is at a loss to understand that when a Government Order is issued, it is applicable to those who are identically placed, and it cannot be confined to those who have approached the legal



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system for deriving benefit under the Government Order. While the learned Single Judge has hinted that those who are similarly placed must be treated equally, this Court goes further to state that those who are identically placed for identical benefit cannot be discriminated.

5. The learned Additional Government Pleader submitted that a Full Bench of this Court in ***Government of Tamil Nadu vs. G.Eswaran and Others [(2017) 2 MLJ 257]***, has held that the petitioner would be only entitled to pensionary benefits and not any monetary benefits in terms of G.O.Ms.No.210 (School Education (G-1) Department, dated 14.08.2009.

6. In view of the same, this Court only modifies the order of the learned Single Judge, dated 03.01.2013 made in W.P(MD)No.2308 of 2010 and holds that notwithstanding the fact that the writ petitioner is entitled to the benefit of G.O.Ms.No.210 referred to above, he still will be entitled only for pensionary benefits in terms of the authoritative pronouncement in ***Eswaran's case(referred supra)***.



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7. To conclude, this writ appeal is partially allowed as indicated above.

No Costs. Consequently, connected Miscellaneous Petition is closed.

(N.S.S., J.) (P.V.M., J.)
15.04.2024

NCC : Yes/No

Index : Yes/No

PM

To

01.The Secretary,
State of Tamil Nadu,
Department of School Education,
St. George Fort, Chennai – 600 006.

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College Road,
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