



W.A.(MD)No.1237 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2024

CORAM:

THE HONOURABLE **MRS.JUSTICE V.BHAVANI SUBBAROYAN**
AND
THE HONOURABLE **MR.JUSTICE K.K. RAMAKRISHNAN**

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and

C.M.P.(MD)No.8249 of 2016

- 1.The State of Tamil Nadu,
Rep. By the Principal Secretary to Government,
School Education Department,
Fort St. George, Chennai – 9.
- 2.The Director of School Education,
College Road, Chennai – 600 006.
- 3.The Chief Educational Officer,
Dindigul – 624 001.
- 4.The District Educational Officer,
Dindigul – 624 001.

...Appellants

/Vs./

- 1.D.Arockiam
- 2.The Correspondent,
St.Mary's Higher Secondary School,
Dindigul.

...Respondents



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PRAYER:- Writ Appeal - filed under Clause XV of Letters Patent Act, against the order passed by this Court in W.P.(MD)No.10875 of 2011 dated 20.12.2011.

For Appellants : Mr.D.Sadiq Raja
Additional Government Pleader
For Respondents : Mr.B.Alagarsamy (R1)
No appearance (R2)

JUDGMENT

(Judgment of the Court was made by **V.BHAVANI SUBBAROYAN, J.**)

This writ appeal has been preferred by the State challenging the order passed by this Court in WP(MD)No.10875 of 2011 dated 20.12.2011.

2. The said writ petition was filed by the first respondent herein praying for a direction to the respondents to extend the benefits of G.O.(Ms.).No.258, School Education (M.1) Department, dated 06.09.2010, to the writ petitioner / first respondent, who was appointed as Secondary Grade Teacher on 01.06.1972 and was awarded selection /



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special grade after completion of 10/20 years of service on 01.06.1982 and superannuated on 28.02.2007 as Secondary Grade Teacher without any promotion.

3. The case of the writ petitioner is that in the V pay commission, there is a disparity between the secondary grade teachers who were holding the post of Primary school Headmasters in elementary education and the secondary grade teachers working in higher secondary schools. To remove the disparity, the Government issued G.O.Ms.No. 216, Finance (Pay Cell) Department, dated 22.03.1993. One Special Grade secondary grade teachers had filed a petition before the Tamil Nadu Administrative Tribunal, to refix the time scale of pay, to pay arrears and other consequential benefits as per the aforesaid GO, which was also allowed and ended in the appeal filed by the Government, which was also dismissed by the Hon'ble Supreme Court.

4. The further case of the writ petitioner is that the official respondents / appellants implemented the order by issuing another



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G.O.Ms.No.258, dated 06.09.2010 restricting the benefit only to the said applicant, who claimed the benefit. The writ petitioner wants this benefit to be extended to him claiming as similarly placed person that of the said applicant.

5. The learned Single Judge of this Court allowed the writ petition and directed the respondents to dispose of the petitioner's representation by extending the benefits of G.O.(Ms.).No.216, Finance (Pay Cell) Department, dated 22.03.1993, and G.O.(Ms.).No.258, School Education (M.1) Department, dated 06.09.2010, within a period of four months from the date of receipt of his representation enclosed with this order copy. Challenging the same, the present writ appeal has been filed by the State.

6. The learned Additional Government Pleader appearing for the appellants submits that a Government Order in G.O.Ms.No.304, Finance (PC) Department, dated 28.03.1990 was issued by reintroducing selection grade / special grade in the improved scales of pay. The



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Government granted separate scale of pay for Headmaster/Headmistress of Primary Schools without special pay. G.O.Ms.No.216 does not specifically say that the secondary grade teachers working in High Schools and Higher Secondary Schools shall be sanctioned selection and special grade on par with the primary school headmasters. He further submits that both the services are distinctly different and the factual matrix of the similarly placed person is absolutely different from that of the present case and the benefit extended to him cannot be made applicable to all. Hence, he prayed to allow this writ appeal.

7. The learned counsel appearing for the first respondent submits that the writ petitioner / first respondent is entitled for the benefit under the aforesaid GOs and prayed for dismissal of this writ appeal.

8. Heard the learned Additional Government Pleader appearing for the appellants and the learned counsel appearing for the first respondent and perused the materials available on record.



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9. It is seen that the issue involved in the present writ appeal is squarely covered by the decision of the Hon'ble Full Bench of this Court in Rev.Appln.No.227 of 2015, dated 09.12.2016. The Full Bench of this Court, in Rev.Appln.No.227 of 2015, dated 09.12.2016, keeping in mind the financial strain that would fall on the State Exchequer in the event of implementation of the G.O., and in order to give a quietus to the issue, held that it is appropriate to fix the date as 01.03.2017 from which date onwards, the Government shall calculate and revise the pension and family pension (without arrears) based on the revised scales of pay by implementing the said G.O., for which, the learned Advocate General and the learned counsels appearing for the Teachers have fairly acceded to the same. The relevant portion of the order is extracted hereunder :-

“i) The Government is directed to implement the G.O.Ms.No.216, dated 22.03.1993 for the period between 01.06.1988 and 31.12.1995, on and from 01.03.2017 onwards in respect of all the Secondary Grade Teachers of High/Higher Secondary Schools including the Special Teachers who attained Selection Grade/Special Grade during the above said period, on par with the pay scale of Primary School Headmasters;



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ii)Consequently, the Government shall calculate and revise the pension of those who retired from service and revise the family pension in respect of those who expired, based on the revised scales of pay in terms of G.O.Ms.No. 216, dated 22.03.1993 payable on and from 1.3.2017;

iii)It is made clear that the beneficiaries under this order, are not entitled to the arrears of revised pay scales;

iv)It is further made clear that the benefits as directed above, shall be extended to the parties who are before this Court alone and no fresh Writ Petitions would be entertained on and from 09.12.2016;

v) The Government is directed to expedite the process of calculating and fixing the revised pension and family pension and we do hope that the Government will complete the same as early as possible without making any further delay;

vi) All the matters which are at SR stage and listed before this Court are also ordered and disposed of by this common order and consequently, connected Mps thereof, are ordered;

10. It is seen that the writ petition was of the year 2011 and the writ appeal has been filed in the year 2016 and hence, the writ petitioner /



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first respondent falls within the purview of the decision of the Full Bench of this Court.

11. In view of the above, the appellants are directed to consider the case of the writ petitioner / first respondent based on the decision of the Full Bench of this Court, in Rev.Appln.No.227 of 2015, dated 09.12.2016, within a period of twelve weeks from the date of receipt of a copy of this judgment.

12. With the above direction, this Writ Appeal is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

(V.B.S.J.) & (K.K.R.K.J.)
27.02.2024

NCC :Yes/No
Index :Yes/No
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and
K.K. RAMAKRISHNAN, J.

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Judgment made in
W.A.(MD)No.1237 of 2016

Dated:
27.02.2024