



W.A(MD)No.612 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2024

CORAM:

**THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN
and
THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN**

**W.A(MD)No.612 of 2017
and
C.M.P(MD)No.5100 of 2017**

- 1.The Principal Secretary to Government,
School Education (G2) Department,
Chennai.
 - 2.The Director of Elementary Education,
College Road, Chennai.
 - 3.The District Elementary Educational Officer,
Collectorate, Karur District,
Karur.
 - 4.The Additional/Assistant Elementary Educational Officer,
Krishnarayapuram,
Karur District.
- ...Appellants/Respondents

Vs.

S.Pushpam ...Respondent/Writ Petitioner



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PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent Act, to set aside the order dated 01.10.2013 in W.P(MD)No.15113 of 2013.

For appellants : Mr.D.Sadiqraja
Additional Government Pleader

For Respondent : Mr.C.K.M.Appaji

JUDGMENT

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

This Intra Court Appeal is directed against the order passed by the writ Court, dated 01.10.2013 in W.P(MD)No.15113 of 2013.

2. We have heard Mr.D.Sadiq Raja, learned Additional Government Pleader appearing for the appellants and Mr.C.K.M.Appaji, learned counsel appearing for the respondent and perused the materials available on record.

3. The learned Single Judge in W.P(MD)No.15113 of 2013, dated 01.10.2013 has considered the writ of mandamus directing the respondent to



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extend the benefits of G.O(Ms)No.234, Education (G2) Department, dated 10.09.2009 and to count the service rendered by the petitioner prior to 01.06.1988 as Secondary Grade Teacher for the purpose of fixation and grant of selection and Special Grade Scale of pay in the post of Primary School Headmaster with all consequential benefits including payment of arrears of pay and allowances and re-fixation of pension and payment of arrears applicable to the petitioner.

4. According to the learned Single Judge, the petitioner's husband was working as Secondary Grade Teacher and later, he was promoted as Headmaster of Elementary School and ultimately, he attained superannuation. The service of the petitioner's husband's prior to 01.06.1988 as Secondary Grade Teacher was not considered for the purpose of fixation of pay and selection and Special Grade in the post of Primary School Headmaster and also fixation of consequential benefits.

5. Accordingly, the Writ Court directed the first respondent therein to extend the benefits under G.O(Ms)No.234, dated 10.09.2009, to the petitioner's husband within a period of sixteen weeks from the date of receipt of a copy of the order.



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6. The said order was challenged by the appellants herein.

7. Similar matters were also challenged by way of many writ appeals and the Division Bench has denied the said benefits to the certain extent and the same was also referred to the Full Bench.

8. The Full Bench of this Court in Rev.Appln.No.227 of 2015, dated 09.12.2016 was of the view that 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, the Full Bench held that it 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. Accordingly, the Full Bench passed the following order:

“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



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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;

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;



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9. Accordingly, the issue was covered in favour of the employees and the Government has to accept the position and they have to decide each case and then pass appropriate orders by refixing the family pension.

10. This was also clarified by the Hon'ble Division Bench in Rev.aplc(MD)No.35 of 2018 wherein, those cases before the Hon'ble Full Bench and before the Hon'ble Division Bench pertains to the family pension. Accordingly, the Government was directed to calculate and fix the pension and family pension.

11. In view of the above, the appellants are directed to fix the payment of pension and other family pension alone and not re-fixing the all other arrears or consequential benefits. The same shall be done within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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WEB COPY 12. With the above observation, the writ appeal is partly allowed. No costs.

Consequently, connected miscellaneous petition is closed.

[V.B.S.,J.] [K.K.R.K.,J.]
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and
K.K.RAMAKRISHNAN, J.

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JUDGMENT MADE IN
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