



W.A(MD)No.701 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.03.2024

CORAM:

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

**W.A(MD)No.701 of 2017
and
C.M.P.(MD).Nos.5443 of 2017 and 4257 of 2020**

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Secretariat,
Chennai -9.
- 2.The Director of Elementary Education,
College Road,
Chennai -6.
- 3.The District Elementary Educational Officer,
Cheranmadevi,
Tirunelveli District.
- 4.The Additional Assistant Elementary Educational Officer,
Kalakkadu,
Tirunelveli District.

... Appellants

Vs.



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R.Dharmaraj

W.A(MD)No.701 of 2017

... Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent, against the order of this Court, dated 25.11.2014 in W.P.(MD).No.10987 of 2010.

For appellants : Mr.D.Sadiq Raja
Additional Government Pleader

For Respondent : Mr.T.A.Ebenezer

J U D G M E N T

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

This Writ Appeal has been filed against the order of the learned single Judge passed in W.P.(MD).No.10987 of 2010, dated 25.11.2014, wherein the petitioner has sought for a direction to the respondents to accord selection grade or special grade in the post of Head Master of Elementary School by counting entire service rendered in the post of Secondary Grade Teacher prior to 01.06.1988 with all the consequential benefits including payment of arrears and allowances and re-fixation.



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2. According to the petitioner, he joined in the post of Secondary Grade Teacher on temporary basis on 21.01.1974 and he joined the service on permanent basis on 01.08.1978 as Secondary Grade Teacher and promoted to the post of Headmaster on 02.06.1988 and retired from service on 31.10.2006. Thereafter, he has sent a representation to the respondents on 17.11.2009, seeking to extend the benefit of G.O.(Ms.).No.234, School Education (G2) Department, dated 10.09.2009 to him. The fourth respondent replied that his request will be considered after getting proper Government Orders from the first respondent in this regard. Thereafter, no order has been passed by the first respondent. Hence, the petitioner has filed the writ petition before this Court. The learned single Judge of this Court allowed the writ petition and directed the respondents to accord Selection Grade and Special Grade in the post of Headmaster of Elementary School by counting the service of the petitioner rendered in the post of Secondary Grade Teacher on permanent basis from 01.08.1978 onwards with all consequential and monetary benefits including the benefit of re-fixation of pay and retirement cum pensionary benefits if any. The above said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of



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that order. Challenging the same, the present writ appeal has been filed by the State Government.

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

4. Similarly placed persons have already approached this Court by filing writ petitions seeking to extend the benefit of G.O.(Ms.).No.234, School Education (G2) Department, dated 10.09.2009 to them. The learned single Judge of this Court dismissed the batch of writ petitions by holding that the validity of the above prayers made by the writ petitioners seeking the benefit akin to the Teachers covered by the Government Order or for reviving the cause of action after three decades can never be countenanced by this Court. The said decision was challenged by the writ petitioners before the Division Bench of this Court in W.A.(MD).Nos.914 to 925 of 2011 and the Division Bench of this Court allowed the writ appeals and directed the Secretary to Government, School Education Department, the first respondent herein to extend the benefit of G.O.(Ms.)No.210,



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School Education (G-1) Department, dated 14.08.2009 and G.O.(Ms.).No.234, School Education (G2) Department, dated 10.09.2009, to the appellants, within a period of twelve weeks from the date of receipt of a copy of that judgment. Challenging the same, the State Government has filed the Review Applications before the Division Bench of this Court in Rev.Appln.(MD).Nos.90 to 95. The Division Bench of this Court allowed the Review Applications stating that G.O. (Ms.).No.210, School Education (G-1) Department, dated 14.08.2009 and G.O. (Ms.)No.234, School Education (G2) Department, dated 10.09.2009, are applicable to the Panchayat School Teachers alone and not to the Teachers, who served in the Aided Schools. As the petitioner was serving in the aided school is not eligible.

5. That being the case, this Court is of the view that the appeal filed by the State Government has to be allowed. Accordingly, this Writ Appeal is allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

[V.B.S.,J.] & [K.K.R.K.,J.]
05.03.2024

akv

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