



W.A(MD)No.849 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2024

CORAM:

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

**W.A(MD)No.849 of 2017
and
C.M.P(MD)No.5769 of 2017**

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George,
Chennai-600 006.
 - 2.The Director of Elementary Education,
College Road,
Chennai 600 006.
 - 3.The District Elementary Educational Officer,
Nagercoil,
Kanyakumari District.
 - 4.The Assistant Elementary Education Officer,
Kulithurai,
Kanyakumari District.
- ...Appellants/Respondent

Vs.



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....Respondent/Writ petitioner

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order made in W.P(MD)No.10336 of 2014, dated 27.06.2014.

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

For Respondent : Mr.Aswin Rajasimman

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 27.06.2014 in W.P(MD)No.10336 of 2014.

2. The respondent has filed the writ petition seeking writ of mandamus directing the appellants to sanction and award forthwith selection Grade and Special Grade to the petitioner in the post of Middle School Headmaster by reckoning and computing the petitioner's service rendered in the cadres of Graduate Teacher and Middle School Headmaster by extending the benefit of G.O.Ms.No.210, School Education (G1) Department, dated 14.08.2009.



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3. The learned Single Judge allowed the writ petition based on the submissions made by both parties that the issue involved in this case is squarely covered by the various decisions rendered by this Court earlier and one of such decision was made in W.P(MD)Nos.7482 & 7483 of 2014, dated 29.04.2014.

4. The learned Single Judge directed the appellants to consider the grant of selection Grade as well as the Special Grade to the petitioner as per G.O.Ms.No. 210, School Education (G1) Department, dated 14.08.2009.

5. Challenging the said order, the appellants have filed the present writ appeal.

6. The learned Additional Government Pleader appearing for the appellants would submit that the respondent was initially appointed as Secondary Assistant Teacher on 08.06.1970 and he was regularised in his service on the same date and was given the selection grade on 08.06.1970. Then he was promoted as middle school head master on 12.02.1982 and he attained his superannuation on 31.10.2004. He would further submit that the said benefit was applicable only to



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Panchayat Union Schools and not to other schools either aided or Municipal. As per G.O.Ms.No.210, dated 14.08.2009 the benefit of counting of services prior to 01.06.1988 for awarding Selection Grade and Special Grade was restricted to those who approached the Tribunal and got order in their favour. The said benefit was extended to few more persons under G.O.Ms.No.190 dated 12.07.2010 but was restricted only to those who approached the Court and not to others. He further submitted that thereafter G.O.Ms.No.146, dated 19.06.2012 was passed extending the benefits of G.O.Ms.No.210 dated 14.08.2009 to teachers who got retired prior to 30.09.1994 and was restricted to only those who approached the Court i.e., 260 persons. The writ petitioner got retired on 30.09.1994 and therefore, they are not entitled to the benefits of G.O.Ms.No.210. The G.O.Ms.No.146 dated 19.06.2012 which fixed the cut off date as 30.09.1994 was not challenged by the writ petitioner and further it was restricted to only those 260 teachers.

7. He would further submitted that in the affidavit filed in support of the writ petition, it is not specifically stated as to whether the respondent/writ petitioner was employed in a Government School or in an Aided School.



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8. Per contra, the learned counsel appearing for the respondent/writ petitioner would submit that the writ petitioner is eligible for the extension of benefits of G.O(Ms) No.210, School Education (G1) Department, dated 14.08.2009 as he was employed as a Secondary Grade Teacher in a Government School. The learned counsel for the respondent/writ petitioner would submit that the matter is squarely covered by the judgment of the Division Bench of this Court in W.A.Nos.34 of 2017, etc., batch of cases (The Secretary to Government, School Education Department, Fort St. George, Chennai-600 009 and others vs. S.Stanislaus), dated 03.01.2019.

9. The learned Additional Government Pleader appearing for the appellants would submit that 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.

10. 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



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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 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,



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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;

11. 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.

12. 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.



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13. In view of the above, the appellants are directed to fix the payment of pension and other family pension of the petitioner only 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.

14. In the result, this writ appeal is dismissed. 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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