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W.A.No.1205 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2025

CORAM

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.A.No.1205 of 2023

1. Sulochana Lily Gnanamalar
2. R.Selwyn Amirtharaj
3. D.Azariah
4. A.Beulah Manohara Pushpavathy
5. T.Jebaraj
6. S.Samuel Gunaseelan
7. R.Mabel Jasmine Elizabeth

... Appellants

-Vs-

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Education Department,
Secretariat,
Chennai.
2. The Director of School Education,
(Higher Secondary),
College Road,
Chennai - 6.
3. The District Education Officer,
Tirunelveli District Education Office,
Tirunelveli - 627 009.
4. T.Stephen Gnana Thiraviam



W.A.No.1205 of 2023

5. C.Chellakani

6. J.Thomas Jeyaveerapandian

7. M.Samuel

... Respondents

PRAYER : Appeal under Clause XV of Letters Patent against the order dated 02.12.2019 made in W.P.No.22200 of 2019.

For Appellants : Mr.Manoj Sreevalsan

For Respondents : Mrs.J.C.Durairaj
Additional Govt. Pleader for R1 to R3

J U D G M E N T

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This intra Court appeal has been directed against the order dated 02.12.2019 made in W.P.No.22200 of 2019.

2. The writ petition was filed seeking a direction to the official respondents to extend the benefits provided in G.O.(Ms)No.216, Finance (Pay Commission) Department, dated 22.03.1993 to the petitioners and award them with Selection Grade, Special Grade pay scale with effect from 01.06.1988 and consequently to revise the pensionary benefits.

3. The said writ petition has been dismissed by the order impugned



W.A.No.1205 of 2023

mainly relying upon a Full Bench decision of this Court dated 09.12.2016 made in Rev.Appln.No.227 of 2015 in W.A.No.352 of 2014.

4. In fact, in the said Full Bench judgment, in the operative portion, such a benefit having been considered was extended to the retirees who have been before the Court. The relevant portion of the order reads thus:

"i) The Government is directed to implement the G.O.Ms.No.216, dated 22.03.1993 for the period between 1.6.1988 and 31.12.1995, on and from 1.3.2017 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 period, on par with the pay scale of Primary School Headmasters."

5. However, the restriction has come from the said judgment in sub paragraph No.(iv) of paragraph No.38 which reads thus:

"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."

6. Since the Full Bench has restrained that the benefit extended under G.O.(Ms)No.216 should be only applicable to those who had already been



W.A.No.1205 of 2023

before the Court and for getting the same relief, no fresh writ petitions would be entertained on and from 09.12.2016.

7. Only in view of the said restriction having been made by the said decision of the Full Bench, the learned Judge has refused to entertain the writ petition by citing the said reasons in paragraph No.10 of the order impugned.

8. We have heard Mr.Manoj Sreevalsan, learned counsel appearing for the appellants as well as Mr.J.C.Durairaj, learned Additional Government Pleader appearing for the respondents 1 to 3.

9. The learned counsel appearing for the appellants has brought to our notice that, the issue as to whether the benefit already been conferred to eligible persons under G.O.(Ms)No.216 can be extended to the remaining eligible persons or not had already engaged the Court where atleast two Division Bench judgments have been made. In this context, we relied upon a Division Bench judgment of this Court *dated 20.10.2023* made in *W.A.No.2759 of 2019* in the matter of *the State of Tamil Nadu, Represented by its Secretary to Governement, Finance (Pay Cell) Department, Fort St.George, Chennai - 600 009 and others vs. A.Saradha and others*. In the said Division Bench



judgement, where one of us is a party, we have taken the earlier decision of the Division Bench on the same day, i.e., on 20.10.2023 made in W.A.No.3919 of 2019 and passed the following order:

"4. Subsequently the matter had been referred to a Full Bench, which disposed the matter in Review Application No.227 of 2015 etc. in W.A.No.1744 of 2015 etc. batch in the matter of Government of Tamil Nadu Vs. G.Eswaran reported in 2017 (1) CWC 561.

5. Following the directions issued by the Full Bench judgment, subsequent Division Bench judgment also had extended the benefit in terms of the directions given by the Full Bench as cited supra, these aspects having been taken note of by this Bench today (i.e. 20.10.2023) we passed orders in Writ Appeal No.3919 of 2019, where we have passed the following order:

5. In fact the issue raised in the said writ petition is covered by number of decisions as already this issue had been referred to a Full Bench of this Court, where in review application No.227 of 2015 & etc., batch, dated 09.12.2016, the Full Bench has given a set of directions, which reads thus:

38. Today, when the matters are taken up for consideration, 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, we feel 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 G.O., for which, the learned Advocate General and the learned counsels appearing for the Teachers have fairly acceded to the same. Accordingly, we pass the following:

- i) The Government is directed to implement the G.O.Ms.No.216, dated 22.3.1993 for the period between 1.6.1988 and 31.12.1995, on and from 1.3.2017 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 22.3.1993 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 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.?

6. Following the said directions, which being a consent one, a subsequent Division Bench in a similar issue in W.A.No.71 of 2019 had passed an order on 20.01.2020 ordering the said writ appeal only in terms of the direction given by the Full Bench, which has been extracted herein above.

7. In view of the said legal position, where similar relief had already been extended to the similarly placed persons like the respondent of-course on and from 01.03.2017 without any arrears, the same benefit can



very well be extended to the present respondent also. To that extent, the challenge made against the impugned order in the present appeal can be concluded.

8. Recording the aforesaid, this writ appeal is disposed of in terms of the aforesaid order of the Full Bench of this Court in Rev.Appln.No.227 of 2015 & etc., batch and accordingly, this writ appeal stands disposed of. No costs. Connected miscellaneous petition is closed.?"

6. In view of the aforestated, this Writ Appeal is dismissed in terms of the aforesaid order and if any benefits already been extended to the respondents pursuant to the G.Os. referred to above prior to 17.05.2013, that shall not be recovered. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed."

10. Since the retirees, i.e., pensioners who otherwise become eligible to get the benefits provided under G.O.(Ms)No.216 are entitled to get the same benefits, because the pension is a continuous cause of action which every retirees would receive till the death. When that being so, such a restriction cannot be made for other eligible retirees to come before this Court to seek for such extension of benefits for which otherwise they are entitled to. Therefore, since several writ petitions having been allowed and the writ appeals also confirmed the order passed by the writ Court where atleast two Division Bench



W.A.No.1205 of 2023

judgments have been referred to, where one of us is a party, we do not feel that

the present case alone is an exception. Therefore, the judgement impugned is

liable to be interfered with, resultantly, the same is set aside and the Writ

Appeal is allowed to the extent indicated above whereby the benefit of

G.O.(Ms)No.216, Finance (Pay Commission) Department, dated 22.03.1993

shall be extended to the appellants herein also strictly in accordance with sub

para (1) of Paragraph No. 38 of the Full Bench Judgement referered to above.

However, there shall be no order as to costs.

(R.S.K., J.) (A.D.M.C., J.)

22.04.2025

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

vji

To

1. The Principal Secretary to Government,
The State of Tamil Nadu,
Education Department,
Secretariat,
Chennai.

2. The Director of School Education,
(Higher Secondary),



College Road,
Chennai - 6.

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3. The District Education Officer,
Tirunelveli District Education Office,
Tirunelveli - 627 009.



W.A.No.1205 of 2023



WEB COPY



W.A.No.1205 of 2023

**R.SURESH KUMAR, J.
and
A.D.MARIA CLETE, J.**

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