



W.P. Nos. 11680 to 11683 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2025

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

W.P. Nos. 11680 to 11683 of 2018

and

W.M.P. Nos. 13660 to 13663 of 2018

V.Vasugi	... Petitioner in W.P. No. 11680 of 2018
S.Leema Rose Anthonia	... Petitioner in W.P. No. 11681 of 2018
R.Kalpana	... Petitioner in W.P. No. 11682 of 2018
M.Anthoniammal	... Petitioner in W.P. No. 11683 of 2018

-VS-

1. The Government of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Fort St. George,
Chennai – 600 009.
2. The Director of Elementary Education,
College Road,
Chennai – 600 006.
3. The District Elementary Educational Officer-cum-
Zonal Audit Officer of the Elementary Educational Department,
Cuddalore Zone,
Cuddalore.
4. The District Elementary Educational Officer,
Vellore District,
Vellore.
5. The Assistant Elementary Educational Officer,



W.P. Nos. 11680 to 11683 of 2018

Katpadi Panchayat Union,
Katpadi,
Vellore District.

... Respondents

Common Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings of the 5th Respondent in Na. Ka. No. 44 /A3/ A1/ 2016 dated 24.07.2017 and quash the same.

For Petitioner : Mr. A.S.Kaizer (in all W.P.s)

For Respondents : Mr. T.Chezhiyan,
Additional Government Pleader
(in all W.P.s)

COMMON ORDER

These writ petitions have been filed challenging the order of the fifth respondent dated 24.07.2019 and to quash the same and pass such further order.

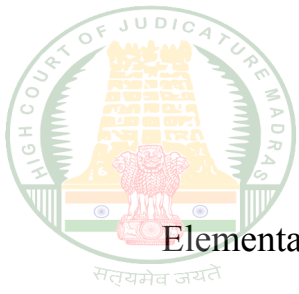
2. All the petitioners have been appointed as Secondary Grade Assistant Teacher and they have been awarded with the Selection Grade in the post of Secondary Grade Assistant Teacher after completion of 10 years of service. They have been promoted to the post of Elementary School Head Masters on the verge of completion of 10 years. The fifth respondent passed an order awarding selection grade in the post of Elementary School Head Master with effect from 21.09.2008 taking into account of the identical scale of pay in the



W.P. Nos. 11680 to 11683 of 2018

WEB COPY

post of Secondary Grade Assistant Teacher, which is equivalent to the ordinary scale of pay of the Elementary School Head Masters. This is in accordance with the Government Order issued in G.O. Ms. No. 38, School Education (S2) Department dated 05.03.2001. In pursuant to the pay revision, which had come into effect subsequently through the Government Order No.234 dated 01.06.2009, the petitioners pay was fixed. Subsequently, through the Government Order G.O.Ms. No. 23 Finance Pay Cell Department dated 12.01.2011 issued and the anomaly has been rectified and a proceeding has been issued by re-fixing the same. On 05.01.2012, a Government Order was issued stating that Selection Grade / Special Grade scales of pay is applicable to teachers awarded with selection grade / special grade prior to 01.01.2006 and the Teachers who have opted for a revised scale of pay on subsequent dates between the period from 01.01.2006 and 31.05.2009 and the selection grade and special grade have been given with notional effect from 01.01.2006 or from the date of exercising revised option as the case may be and with monetary benefit from 01.01.2011. As the petitioners opted to get the revised scale as per the Government Letter dated 05.01.2012, a proceedings has been issued subsequently to refund the increment benefit availed by the petitioners between 01.01.2006 and 31.05.2009 and thereafter their pay has been re-fixed by allowing them the Selection Grade / Special Grade Pay in the post of



W.P. Nos. 11680 to 11683 of 2018

Elementary School Head Master. For the sake of clarity and individual

entitlement of the petitioners, the following table is drawn to show the date of the appointment as Secondary Grade Teacher, the date of Award of Selection Grade in Secondary Grade Assistant Teacher, the date of promotion as Elementary School Head Master and the date of award of Selection Grade in the post of Elementary School Head Master as per G.O. Ms. No. 38, 05.03.2001:-

"

<i>Sl. No.</i>		<i>W.P.11680/2 018 V.Vasugi</i>	<i>W.P.11681/2 018 S.Leema Rose Anthonia</i>	<i>W.P.11682/2 018 R.Kalpna</i>	<i>W.P.11683/2 018 M.Anthonia mmal</i>
1.	<i>Date of appointment as Secondary Grade Teacher,</i>	21.09.1988	13.09.1988	20.09.1988	23.08.1988
2.	<i>Date of Award of Selection Grade in Secondary Grade Assistant Teacher,</i>	20.09.1998	13.09.1998	20.09.1998	23.08.1998
	<i>Date of promotion as Elementary School Head Master</i>	02.06.2008	02.06.2008	02.06.2008	26.07.2006
	<i>Date of award of Selection Grade in the post of Elementary School Head Master as per</i>	21.09.2008	13.09.2008	20.09.2008	23.08.2008



SL. No.		W.P.11680/2 018 V.Vasugi	W.P.11681/2 018 S.Leema Rose Anthonia	W.P.11682/2 018 R.Kalpana	W.P.11683/2 018 M.Anthonia mmal
	G.O. Ms. No. 38, 05.03.2001				
	Pay Scale of 9300- 34800+4600 GP was done	As per G.O.Ms. No. 234, dt. 01.06.2009	As per G.O.Ms. No. 234, dt. 01.06.2009	As per G.O.Ms. No. 234, dt. 01.06.2009	As per G.O.Ms. No. 234, dt. 01.06.2009
	Pay was fixed at 15600- 39100+5400 GP as per G.O.Ms.23 dated 12.01.2011	10.01.2013	10.01.2013	18.01.2013	12.11.2012

"

However, an audit objection was raised stating that the Government Order Ms.No. 38/2001 is applicable only to those persons who have been promoted before 01.01.2006. It is further stated that the petitioner had got their promotion after 01.01.2006 and after the pay commission revision recommended in the year 2009 the pay is re-fixed and they are liable to pay the amounts as called for.

3. There is no quarrel about the point that the Secondary Grade Assistant is equal to the ordinary pay of Elementary School Head Masters. In fact, the Government Letter dated 05.01.2012 would clarify that the Selection Grade



W.P. Nos. 11680 to 11683 of 2018

/Special Grade pay is applicable only to Teachers awarded with Selection Grade

and Special Grade prior to 01.01.2006 and Teachers who have opted for the revised scale of pay on the subsequent dates from 01.01.2006 and 31.05.2009, i.e., from the date of their award of their Selection Grade / Special Grade. The above clarification has given the benefit of two type of persons

1. for those teachers who have been awarded with the Selection Grade and Special Grade prior to 01.01.2006; and
 2. for those teachers who have opted for the revised scale of pay on the subsequent dates between the 01.01.2006 and 31.05.2009.
4. As the petitioners have opted to get the Selection Grade on 21.09.2008, 13.09.2008, 20.09.2008 and 23.08.2008 they fall within the time limit between 01.01.2006 and 31.05.2009. Only in view of the above said decision, the petitioners were asked to refund the arrears they had drawn between the period from 01.01.2007 and 20.08.2008 in pursuant to the pay revision Government Order issued in G.O. No. 234 dated 01.06.2009. The petitioners have also promptly refunded the arrears they had drawn between the period from 01.01.2007 and 20.08.2008. Relates back to exercised option to get the Selection Grade pay in terms of the Government Letter dated 05.01.2012. Even according to the another Government letter, which is referred in the demand for refund of the arrears from the petitioners dated 07.02.2011 also, the very same



W.P. Nos. 11680 to 11683 of 2018

terms has been stated.

WEB COPY

5. In fact, in the above letter it has been made clear that the option ought to have been exercised prior to the issuance of the pay revision G.O. Ms. No. 234 dated 01.06.2009. There is no disagreement on part that the petitioners have exercised their option before the above pay revision issued in G.O. 234 dated 01.06.2009, but the audit objection has been issued by presuming that the petitioners have got their promotions as Elementary School Head Masters after 2009 and more specifically, after the pay revision under Government Order No.234 dated 01.06.2009 has come into force. If the petitioners are liable to repay the amount as shown in the table attached with the audit objection, it will result in a situation where the petitioners are deprived to avail the benefit either by exercising their option to get Selection Grade or the arrears payable to them in accordance with the pay revision which came into effect in the year 2009. Despite the petitioners had refunded the benefit of arrears availed by them, the petitioners were asked to refund the Selection Grade pay also which is not only unfair but against the impart of various Government Orders and the clarifications given in the Government Letters. The above mistake is obviously because of the presumption that the petitioners have got their promotion subsequent to their pay revision, i.e., after 2009. Since the petitioners have got



W.P. Nos. 11680 to 11683 of 2018

their promotion prior to the year 2009 and that too, between the benefit period

from 01.01.2006 to 31.05.2009, the audit objection itself is incorrect. As the objection itself is incorrect and contrary to the earlier orders passed unmindful of the petitioners' explanation stating about their entitlement, the subsequent re-fixation and demand for recovery is liable to be set aside. It goes without showing that in the event of any recovery made, it is liable to be refunded to the petitioners unlike others.

6. In view of the above stated reasons, these writ petitions are allowed.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

10.02.2025

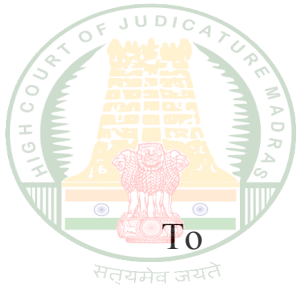
Index: Yes/No

Index: Yes/No

Internet: Yes/No

Speaking /Non-speaking order

Maya



W.P. Nos. 11680 to 11683 of 2018

To

1. The Principal Secretary to Government of Tamil Nadu,
School Education Department,
Fort St. George,
Chennai – 600 009.
2. The Director of Elementary Education,
College Road,
Chennai – 600 006.
3. The District Elementary Educational Officer-cum-
Zonal Audit Officer of the Elementary Educational Department,
Cuddalore Zone,
Cuddalore.
4. The District Elementary Educational Officer,
Vellore District,
Vellore.
5. The Assistant Elementary Educational Officer,
Katpadi Panchayat Union,
Katpadi,
Vellore District.



WEB COPY



W.P. Nos. 11680 to 11683 of 2018

R.N.MANJULA, J.

Maya

W.P. Nos. 11680 to 11683 of 2018

10.02.2025