



W.P.No.43655 of 2016

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

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THE HON'BLE MR. JUSTICE RMT.TEEKAA RAMAN

W.P.No.43655 of 2016

Judgment reserved on 26.02.2025	Judgment pronounced on .04.2025
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Petitioner

Vs

1. The Secretary,
Government of Tamil Nadu,
P&AR Department,
Fort St.George,
Chennai – 600 009.

2.The Secretary,
Government of Tamil Nadu,
Education Department,
Fort St.George,
Chennai – 600 009.

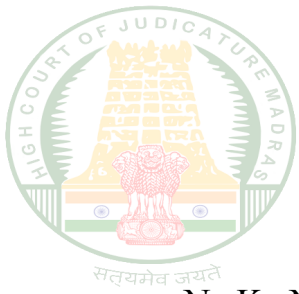
3.The Director of School Education,
DPI Complex, College Road,
Nungambakkam, Chennai.

4. The Chief Educational Officer,
Nagapattinam.

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Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records on the file of the 3rd respondent in connection with his proceedings in



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Na.Ka.No.17058/C5/E1/2016 dated 11.06.2016 and quash the same and consequently direct the respondents to grant the petitioner with fixation of pay on awarding Selection Grade in promotion post as per G.O.Ms.No.210 P&AR Department dated 11.03.1987 alongwith all arrears.

For Petitioner : Mr.T.Aananthi

For Respondents : Mr.G.Velu
Additional Govt. Pleader

ORDER

This writ petition has been filed to quash the order of the 3rd respondent in Na.Ka.No.17058/C5/E1/2016 dated 11.06.2016 and consequently direct the respondents to grant the petitioner with fixation of pay on awarding Selection Grade in promotion post as per G.O.Ms.No.210 P&AR Department dated 11.03.1987 alongwith all arrears.

2. The service matrix of the case are as under -

2.1 The petitioner was initially appointed as Agricultural Instructor (Temporary Basis) with effect from 30.9.1982 and subsequently appointed as Secondary Grade Teacher with effect from 22.09.1983 and served in the same post till 23.2.2005.



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2.2 The petitioner was promoted as B.T. Assistant (Tamil) with effect from 24.2.2005 and retired on superannuation on 30.04.2012. The petitioner was granted the following benefits during his tenure of service.

Selection Grade in Secondary Grade post : 22.09.1993

Special Grade in Secondary Grade post : 05.10.2003

B.T. Assistant promotion : 24.02.2005

Retired on superannuation : 30.04.2012

2.3 The petitioner has filed Writ petition before this Court in W.P.No.648 of 2016 and this court passed orders on 18.01.2016 directing the respondent to dispose of the appeal representation dated 25.01.2013. The representation of the petitioner has been examined by the 3rd respondent with reference to the government orders in force and consequently rejected the request of the petitioner, as devoid of merits vide proceedings of the 3rd respondent in Na.ka.No.17058/C5/E1/2016 dated 11.06.2016.

3. Aggrieved by the above order, the petitioner has filed this Writ petition.



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4. Heard the learned counsel for the petitioner. Counter of the 4th respondent, Chief Educational Officer, Nagapattinam was filed.

5. The learned Additional Govt. Pleader would contend that the petitioner has not completed 10 years of service in B.T. Assistant Post namely identical scale of pay as projected by the petitioner. He further contended that the concession granted in G.O.Ms.No.210 P & AR Department dated 11.03.1987 has been ceased to be in force in view of introduction of revised pay structure as per G.O.Ms.No.234 Finance Department dated 01.06.2009, as clarified by the Government letter dated 09.08.2011.

6. After hearing the rival submissions and the counter affidavit, I find that the petitioner was granted Selection Grade and Special Grade in the post of Secondary Grade Teacher on completion of 10 years and 20 years respectively. The petitioner was promoted as B.T. Assistant with effect from 24.02.2005. The petitioner was at liberty to give his option either to continue in the Scale of Pay of Special Grade of the lower post or to fix his



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pay in the promoted post by getting one increment benefit as prescribed under rule 22(A) (1) and 22-B of Tamil Nadu Fundamental rules.

7. From the affidavit filed, I find that the petitioner has availed the concession of one increment benefit consequent on the promotion as B.T. Assistant. The pay of the petitioner has been re-fixed in the revised Scale of Pay of B.T. Assistant with effect from 01.01.2006 vide G.O.Ms.No.234. Finance Department dated 01.06.2009 and Government orders in G.O.Ms.No.23, Finance Department dated 12.01.2011.

8. It is the specific stand of the official respondent that G.O.Ms.No.210 P & AR Department dated 11.03.1987 was modified vide G.O.Ms.No.234 Finance Department dated 01.06.2009 and subsequently clarified by the Government vide letter dated 09.08.2011. The Additional Government Pleader was asked to circulate a copy of the above said letter.

9. It is seen from the above said letter that the Government have issued clarification in Govt.Lr.No.23373/S/2011-2 dated 09.08.2011 to the effect that the concession of granting Selection Grade or Special Grade

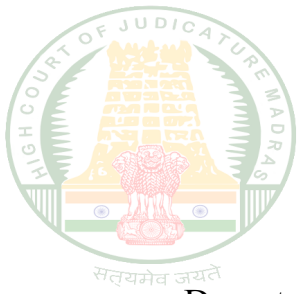


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taking into account the pay drawn in identical Scale in the feeder post and higher post cannot be allowed in respect of those whose pay has been fixed in the Revised Scale of Pay as on 01.01.2006 with reference to G.O.Ms.No.234 Finance Department dated 01.06.2009.

10(a). Coming to the factual matrix as applicable to the petitioner service, the petitioner was promoted as B.T. Assistant w.e.f. 24.02.2005, retired on superannuation on 30.04.2012, without completing 10 years in the post of B.T.Assistant. This was not disputed by the petitioner and hence when the petitioner has worked in the post of Secondary Grade Teacher in Special Grade capacity from 05.10.2003 and even after taking that period alongwith period of services in the higher posts in a lower pay scale till 30.04.2012, it works out to eight years and not ten years.

(b) Therefore, question of counting the period of services in identical scale of pay does not arise on the service matrix of the petitioner. In view of the clarification issued by the Government in letter No.23373/S/2011-2 dated 09.08.2011, G.O.Ms.No.210 P & A.R Department dated 11.03.1987 is not applicable to the petitioner. In view of the clarification issued by the Government in G.O.Ms.No.234 Finance



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Department dated 01.06.2009 and subsequent clarification letter dated 09.08.2011, the petitioner is not entitled for the benefit as prayed for under G.O.Ms.No.210 P & A.R. Department dated 11.03.1987.

(c) Hence, this court finds that the pay of the petitioner has been fixed in the post of B.T. Assistant in the revised scale of pay as on 01.01.2006. Therefore, concession granted in G.O.Ms.No.210 P&A.R. Department dated 11.03.1987 is not applicable to the petitioner. In view of the settled position and in view of the service matrix of the petitioner, the rejection order passed by the respondent cannot be found fault. The petitioner, having worked in identical scale of pay in the lower post only from 05.10.2003 and worked in the higher post from 24.02.2005 and retired on 30.04.2012, viewing from any angle, is not entitled for the benefit under the said G.O.Ms.No.210 P & A.R. Department dated 11.03.1987.

11. Accordingly, this Writ Petition is misconception of facts and hence dismissed. No costs.

...04.2025

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Index : Yes/No

Speaking/Non-speaking order



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RMT.TEEKAA RAMAN, J.

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To

1.The Secretary,
Government of Tamil Nadu,
P&AR Department,
Fort St.George,
Chennai – 600 009.

2.The Secretary,
Government of Tamil Nadu,
Education Department,
Fort St.George,
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3.The Director of School Education,
DPI Complex, College Road,
Nungambakkam, Chennai.

4. The Chief Educational Officer,
Nagapattinam.

Pre-delivery Order in
W.P.No.43655 of 2016

04.04.2025