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W.A.Nos. 1051 & 1085 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.Nos. 1051 & 1085 of 2025
and
C.M.P.Nos. 8420 & 8635 of 2025

1.The District Educational Officer (Audit),
Cuddalore, Educational District,
Cuddalore District.

2.The District Educational Officer,
Vadalur, Educational District,
Cuddalore District.

3.The Block Educational Officer,
Kurinjipadi Block,
Cuddalore District - 670 302.

4.The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.

...Appellants in both appeals

Vs.

A.Vanathaiyan

... Respondent in W.A.No.1051 of 2025

D.Sagayamary

... Respondent in W.A.No.1085 of 2025

Common Prayer: Writ Appeals filed under Clause 15 of the Letters Patent,
against the order dated 14.12.2024 made in W.P.Nos. 16775 & 16765 of
2022.

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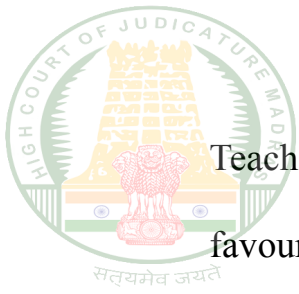
For Appellant : Mr.R.Neethi Perumal
Government Advocate in both appeals
For Respondents : Mr.G.Sankaran, Senior Counsel
for Mr.J.Jayabalan in both appeals

COMMON JUDGMENT

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

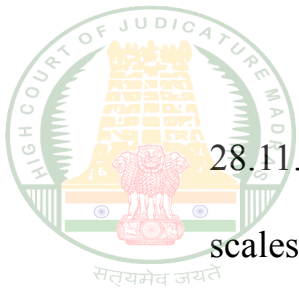
Challenge is to the order of the writ Court made in W.P.Nos.16775 16765 of 2022 dated 14.02.2024. In and by the said orders, the writ Court while quashing the proceedings of the respondents dated 09.05.2022 & 26.04.2022 issued a mandamus directing the respondents to permit the petitioners to draw salary based on fixation of selection grade in the post of primary school Head Master with effect from 06.03.2009 & 28.11.2006 respectively.

2. As far as the respondent in W.A.No.1051 of 2025, he joined as Secondary Grade Teacher in the services of the Elementary Education Department on 12.12.1990 and upon completion of 10 years of service, he was awarded selection grade on 08.08.1998 in the post of Secondary Grade



Teacher. Upon completion of 10 years service in the selection grade, he was favoured with a grant of special grade from 08.08.2008. He was promoted as a Primary School Head Master with effect from 06.03.2009. He exercised his option under Rule 8(2) of the Tamil Nadu Revised Scales of Pay Rules to retain the benefits granted to him under the old scales of pay. In view of such exercise of option, the respondents issued orders conferring him selection grade in the post of Primary School Head Master with effect from 06.03.2009 vide order dated 17.06.2013. Subsequently, by the orders impugned in the writ petition dated 09.05.2022, the department withdrew the benefit conferred and directed recovery of the alleged excess salary paid to him between 06.03.2009 to 28.02.2022 amounting to Rs.13,08,137/-. It was this order, which was challenged in the writ petition in W.P.No.16775 of 2022.

3. As regards the respondent in W.A.No.1085 of 2025, she was appointed as a Secondary Grade Teacher on 29.08.1986. Upon completion of 10 years of service, she was conferred selection grade on 01.08.1995 and 10 years thereafter, she was conferred special grade with effect from 14.08.2005. She was promoted as a Primary School Head Master on



28.11.2006. She also exercised the option to be retained under the old scales of pay under Rule 8(2) of Tamil Nadu Revised Scales of Pay Rules

Therefore, she was granted selection grade in the post of Primary School Head Master with effect from the date of a promotion namely, 28.11.2006 vide the proceedings dated 07.01.2013. By the order impugned in the writ petition dated 26.04.2022, the benefit was sought to be withdrawn on the claim that the grant of selection grade in the promoted post was incorrect. It is this order that was put in issue in W.P.No.16765 of 2022.

4. The writ Court found that the Government Orders that were in force allowed the respondents to exercise their option to be retained in the old scales of pay and as per the clarificatory letter dated 14.05.2012, if the employee choses to retain the old scales of pay, he or she would entitled to benefits conferred under G.O.Ms.No.210, Personnel and Administrative Reforms Department dated 11.03.1987. Upon a such finding, the writ Court set aside the orders impugned in the writ petitions and directed payment of salary and other benefits as per the old scales of pay. Aggrieved, the Government is on appeal.

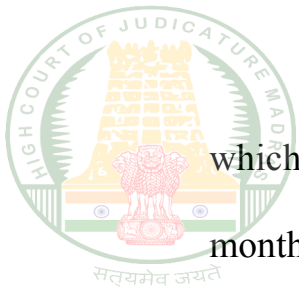


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5. We have heard Mr.R.Neethiperumal, learned Government Advocate appearing for the appellant and Mr.G.Sankaran, learned Senior Advocate appearing for the respondents.

6. Since the issue involved is common, these appeals are disposed of by a common order. With a view to address the issue of stagnation in one post, the Government issued G.O.Ms.No.210, Personnel & Administrative Reforms Department dated 11.03.1987 whereunder, it permitted conferment of selection grade in the promoted post for those persons who have been conferred selection grade in the lower post, if the salary drawn by them in the promoted post is either equal to or less than the salary that was drawn by them in the lower post.

7. Under the said Government Order, the services rendered in the selection grade or special grade in the lower post will be taken into account for conferment of selection grade in the higher post. After the recommendations of the Pay Commission which were implemented from 01.01.2006, the Government issued a clarificatory letter dated 09.08.2011,



which in effect effaced G.O.Ms.No.210. However, within about nine months on 14.05.2012, the Government issued another clarificatory order which restored G.O.Ms.No.210 in respect of employees who were awarded selection grade or special grade between 01.01.2006 to 31.05.2009 and were promoted during that period. The relevant portion of the order dated 14.05.2012 reads as follows:-

"4. Subsequently, based on the recommendations of One Man Commission, 2010 rectifying the anomalies in the recommendations of official committee 2010 orders were issued in G.O.Ms. No.251 to 340, Finance (PC) Department dated 26.8.2010 revising the scales of pay of various posts in scale of pay department wise notionally with effect from 1.1.2006, 12.12.2007 with monetary benefit from 1.8.2010. Consequent on the above revision of scales of pay of the Ordinary Grade posts based on the recommendations of One Man Commission and subsequent Government orders necessary instructions were issued in Government Letter No. 63305/PC/2010-1, Finance Department, dated 8.11.2010 in respect of fixation of pay of employees in the revised Selection Grade/Special Grade posts, as per the Scales of pay indicated in the Annexure.I of the said letter, subject to the conditions stipulated in para-4(i) of this letter. Further, it has been clarified in the above letter, in para-4(ii) that the revised Selection Grade / Special Grade scales of pay indicated in the Annexure.I to the letter shall be confined only to the employees who were awarded, Selection Grade/Special Grade between 1.1.2006 to 31.5.2009 i.e. prior to the issue of G.O.Ms.No.234 Finance (PC) Department, dated 01.06.2009. The above said clarification has been issued taking into consideration of the fact that the employees are entitled to exercise revised option to come over to the revised scales of pay at any point of time from 1.1.2006 to 31.5.2009 on the date of their



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promotion/award of Selection Grade/Special Grade. However, in respect of employees who have rendered services in the pre-revised identical or higher scale of pay in the lower post, during the period 1.1.2006 to 31.5.2009 (i.e. prior to the issue of revised Scales of pay Government order, dated 1.6.2009) orders were already issued awarding Selection Grade/Special Grade based on the general orders issued in G.O.(Ms) No.210, Personnel on Administrative Reforms (S) Department, dated 11.8.1987 and the subsequent instructions issued in this regard. Hence, on the analogy of the instructions issued in Government letter No.63305/PC/2010-Finance Department, dated 8.11.2010, it is considered appropriate to extend the benefit of awarding Selection Grade/Special Grade in the promotion post to the employees who were awarded Selection Grade/Special Grade between 1.1.2006 to 31.5.2009-by-counting the services rendered identical/higher scale of pay in the pre-revised scales of pay.

5. After careful consideration, the Government have ordered to revise the instructions issued in the reference 5th cited to the effect that the benefit of Selection Grade/Special Grade in the revised scale of pay is extended to those employees who were awarded Selection Grade/Special Grade based on the orders issued in references 1 to 4 cited during the period between 1.1.2006 and 31.5.2009, and that the effect of the Government letter issued in the reference fifth cited, will be given effect from 1.6.2009 instead of 1.1.2006."

8. Rule 8(2) of the Tamil Nadu Revised Scales of Pay Rules allowed the employees to exercise their option, either to take the benefit of the revised pay scales or to remain under the old pay scales. It is not in dispute that the respondents in both the appeals had exercised their option to remain under the old pay scales. It is also not in dispute that both the respondents were conferred special grade in the post between 01.01.2006 and 7/11



01.06.2009. It is also not in dispute that the respondents in both the appeals were promoted between the crucial dated namely, 01.01.2006 and 01.06.2009. Therefore, both of them would be entitled to the benefit of G.O.Ms.No.210, as per the clarificatory letter issued by the Government on 14.05.2012.

9. A vehement attempt is made by the learned Government Advocate to contend that the respondents get double benefit. We are unable to accept the said submission. They were awarded selection grade and special grade in the lower post, as a result of which, the pay drawn by them in the higher post in the ordinary grade become either equal to or less than the pay received by them in the lower post. It is only with a view to address the situation where, an employee upon promotion gets lesser pay than what he or she was drawing in the lower post G.O.Ms No:210 was issued. Therefore, the benefit was rightly conferred on the respondents by orders dated 17.06.2013 & 07.01.2013. The withdrawal of the benefits by the orders impugned in the writ petition are contrary to the Government Orders and the clarificatory letters that cover the issue.

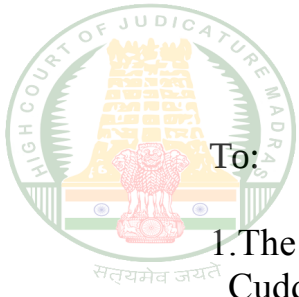


10. We therefore, see no reason to interfere with the order of the writ Court. These Writ Appeals therefore, fail and they are accordingly, **dismissed**. No costs. Consequently, connected miscellaneous petitions are closed. The time for compliance granted by the learned single Judge is extended by eight weeks from the date of receipt of a copy of this order. The learned single Judge is requested to defer the contempt proceedings till such time.

(R.S.M., J.) (G.A.M., J.)
25.04.2025

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Index: No
Speaking order
Neutral Citation : No



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