

W.P(MD)No.10749 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED : 21.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE BATTU DEVANAND

W.P.(MD)No.10749 of 2025
and WMP(MD)Nos.8004 and 8006 of 2025

D. Richard

...Petitioner

Vs.

1. The Principal Secretary to the Government,
School Education Department,
Fort. St. George, Chennai – 600 009.
2. The Additional Chief Secretary to the Government,
Social Welfare and Women Empowerment Department,
Fort. St. George, Chennai – 600 009.
3. The Director of Social Defence / Child Welfare &
Special Service Department,
Department of Social Defence,
No.300, Purasaivakkam High Road,
Kellys, Chennai – 600 010.
4. The Superintendent,
Government Childeren Home,
Thanjavur City – 613 007,
Thanjavur District.



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5. The Accountant General (Accounts and Entitlements),
No.361, Anna Salai, Teynampet,
Chennai – 600 018.

....Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, in the nature of a writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent in No. DSD/1145/2023-A2/I/244381/2025 dated 24.02.2025 and quash the same as illegal and unconstitutional and consequently directing the respondents to award the Selection Grade Pay/Special Grade pay to the petitioner as per G.O.Ms. No.216, Finance (Pay Cell) Department dated 22.03.1993 and consequently direct the respondents to revise payment of pension payable to the petitioner.

For Petitioner : Mr.C.Gangai Amaran

For R1 to R4 : Mr.Amjadkhan
Government Advocate

For R5 : Mrs. S.Mahalakshmi

ORDER

This writ petition is filed to quash the impugned order dated 21.02.2025 and for consequential direction to the respondents to award Selection Grade Pay/Special Grade pay to the petitioner as



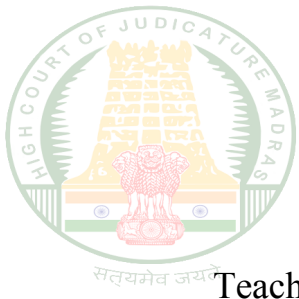
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per G.O.Ms. No.216, Finance (Pay Cell) Department dated 22.03.1993 and to revise payment of pension payable to the petitioner.

2. Heard the learned counsel for the petitioner and Mr.Amjadkhan, learned Government Advocate appearing for the respondents 1 to 4 and Mrs.Mahalakshmi, learned Standing counsel appearing for the fifth respondent and perused the materials available on record.

3. The petitioner initially appointed as Physical Education Instructor at the Government High School at Annamangalam, Cuddalore District. On completion of 10 years, he is entitled to get selection grade and he was granted selection grade of pay on 26.11.1991 and special grade of pay on 26.11.2001. Thereafter, he retired from service on 30.09.2008. While dispensing the selection/special grade pay, the Government granted separate scale of pay of Rs.1440-2600 for Headmasters in Primary School and Rs.1200-2040 for Secondary Grade

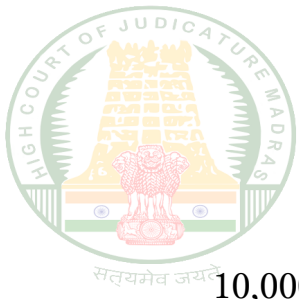


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Teachers. This disparity had caused prejudice to the Secondary Grade Teachers. In view of the same, the petitioner submitted a representation stating that she is also a similarly placed person.

4. In view of the various representations made, the Government has passed the Government Order in G.O.(Ms).No.216, Finance and Pay Cell Department, dated 22.03.1993, introducing uniform scale of pay for all the Secondary Grade Teachers. One N.Govindarajan filed an Original Application before the Tamil Nadu Administrative Tribunal for claiming benefits under the Government Order in G.O.(Ms).No.216, Finance and Pay Cell Department, dated 22.03.1993 and by order dated 07.10.1998, the Tribunal allowed the Original Application and gave a direction to the authorities to fix the scale of pay in terms of the Government Order in G.O.(Ms).No.216, Finance and Pay Cell Department, dated 22.03.1993. After a lapse of nearly nine years, the Government has filed a Writ Petition before this Court in W.P.No.8747 of 2009 challenging the correctness of the order passed by the Tribunal. By order, dated 14.07.2009, this Court dismissed the Writ Petition on the ground of delay and laches with costs of Rs.



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10,000/- and this Court directed the Government authorities to comply with the order of the Tribunal. Aggrieved over the same, the Government has filed SLP (Civil) C.C.No.2746 of 2010 before the Hon'ble Supreme Court and the same was also dismissed. Consequently, the Government was constrained to pass G.O.(Ms).No.258, dated 06.09.2010 for granting relief to the above said individual, viz., N.Govindarajan, who had filed the petition before the Tamil Nadu Administrative Tribunal. Various Government Orders and amendments came to be passed subsequently in view of many litigations filed in this regard. Finally, the Full Bench of the High Court in the case of **Government of Tamil Nadu vs. G.Eswaran** reported in **2017 (2) MLJ 257** granted relief to one individual and directed the State Government to revise the pension for those who retired from service and revised the family pension in respect to those, who expired, based on the revised scale of pay in terms of the Government Order in G.O.(Ms).No.216, Finance and Pay Cell Department, dated 22.03.1993 payable on or before 01.03.2017.

5. Subsequent Government Orders have been passed for complying the orders of this Court by issuance of the Government Order



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in G.O.(Ms).No.90, dated 09.05.2018 and vide Letter No.4636/SANA. 8(2)/2018-5, dated 08.07.2020. Since the petitioner is also the beneficiary of the above said judgment, she filed the present Writ Petition to consider her request for revision of the pensionary benefits in terms of the Government Order in G.O. (Ms).No.216, Finance and Pay Cell Department, dated 22.03.1993.

6. In the above said circumstances, the petitioner sent a detailed representation to the respondents and requested for extending the benefit for payment of selection/special grade to Teachers as per the directions of this Court. The petitioner submitted a fresh representation on 17.10.2024 requesting to extend the said benefits. But the same has been rejected by the impugned order dated 21.02.2025 contending that only those persons who have approached the High Court on or before 09.12.2016 are only eligible for the benefits. Being aggrieved over the said rejection order passed by the third respondent, this writ petition is filed.



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7. The learned counsel for the petitioner would submit that there is no fault at any point of time on the part of the petitioner for rejection of her request for payment of selection/special grade as was paid to similarly placed persons. It is further contended that when a particular set of employees are given relief of any order passed by this Court, the same can be extended to other identically situated persons and they should be treated alike by extending the same benefits. It is not done so far. The same would amount to discrimination and violative of Article 14 of the Constitution of India and sought to quash the impugned order.

8. Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents submitted that in the Full Bench Judgment itself, the cut off date has been fixed as 09.12.2016 and further stated that, no fresh Writ Petition would be entertained from 09.12.2016. However, the Government while reintroducing selection grade/special grade with improved scale of pay and issued G.O.(Ms).No.304, Finance (Pay Commission) Department, dated 28.03.1990, permitting selection grade pay and special grade pay to all intermediate teachers, who are working in Higher Secondary Schools.



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9. However, in a Writ Appeal filed before this Court in W.A.No.3290 of 2019, the Division Bench of this Court has passed an order on 23.09.2019 and held that when a particular set of employees are given relief by the Court, all other identically situated persons should be treated alike by extending the same benefit, as not doing so would amount to discrimination and be violative of Article 14 of the Constitution of India. The relevant portions in the said judgment are extracted hereunder:

“11. It is held therein that when a particular set of employees is given relief by Court, all other identically identically situated persons should be treated alike by extending the same benefit, since not doing so would mean amount to discrimination and be violative of Article 14 of the Constitution of India.

12. In the light of the above discussion and decisions considered, appellant is entitled to the relief granted at Paragraph No.38 of the order of the Hon’ble Full Bench in Government of Tamil Nadu Vs. G.Eswaran, reported in 2017 (1) CWC 561 and benefit of 7/11 <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos. 10189 of 2023 and batch G.O.(Ms).No.90, School Education 3(1) Department, dated 09.05.2018.”

10. Having considered the submissions of the respective counsels and on careful perusal of the materials available on record, this



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Court is of the considered opinion that the issue involved in the present writ petition is no longer *res-integra*. On several occasions, this Court dealt this issue in several writ petitions. By order dated 26.07.2024 in WP(MD)No.10189 of 2023 and batch, this Court considered the same issue and held that the petitioners therein are entitled for the benefits on par with the similarly situated persons. The relevant portion of the said order is extracted herein under:

“7. Subsequent Government Orders have been passed for complying the orders of this Court by issuance of the Government Order in G.O.(Ms).No.90, dated 09.05.2018 and vide Letter No. 4636/SANA.8(2)/2018-5, dated 08.07.2020. Since the petitioners are also the beneficiaries of the above said judgment, they have filed these Writ Petitions to consider their request for revision of the pensionary benefits in terms of the Government Order in G.O. (Ms).No.216, Finance and Pay Cell Department, dated 22.03.199”

11. In the light of the aforesaid discussion, this Court finds that the reasons stated in the impugned order is unsustainable and accordingly it is liable to be quashed.



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12. Accordingly, this writ petition is allowed with the following directions:

i) The impugned order passed by the third respondent in No. DSD/1145/2023-A2/I/244381/2025 dated 21.02.2025 is hereby quashed;

ii) The third respondent shall re-submit the revised pension proposal of the petitioner;

iii) The respondents are directed to award selection grade/special grade pay to the petitioner as per G.O. (Ms.)No.216, Finance (Pay Cell) Department, dated 22.03.1993; and

iv) The respondents are further directed to revise the payment of pension payable to the petitioner within a period of six weeks from the date of receipt of a copy of this order.

There shall be no order as to costs.

Consequently, connected miscellaneous petitions are closed.

21.04.2025

Index : Yes / No
NCC : Yes / No
CM



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BATTU DEVANAND, J.

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