



W.P.(MD) No.3320 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD) No.3320 of 2019

Natchiappan

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Petitioner

Vs

- 1 The Secretary to Government,
School Education Department,
State of Tamil Nadu,
Fort St. George,
Chennai-9.
- 2 The Principal Accountant General (A&E),
Tamil Nadu,
Chennai-18.
- 3 The Directorate of Elementary Education,
Chennai-6.
- 4 The District Elementary Educational Officer,
Pudukkottai District,
Pudukkottai.
- 5 The Block Educational Officer,
Aranthangi,
Pudukkottai District.

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Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus, to call for the records relating to the order passed by the 5th respondent in his proceedings in Na.Ka.No.815/A2/2018, dated 11.10.2018, and quash the same as illegal and consequently direct the respondents to extend the benefits of G.O.Ms.No. 210, School Education Department, dated 14.8.2009, by awarding selection/special grade in the post of Middle School Head Master, by taking into account of the petitioner's entire service rendered prior to 01.06.1988.

For Petitioner : Mr.T.A.Ebenezer

For Respondents 1,3,4 & 5 : Mr.G.V.Vairam Santhosh,
Addl. Govt. Pleader.

For Respondent 2 : Mr.P.Gunasekaran

ORDER

This Writ Petition is filed, assailing the order passed by the fifth respondent in his proceedings, dated 11.10.2018, and seeking for a direction to the respondents to extend the benefits of G.O.Ms.No.210, School Education Department, dated 14.8.2009, by awarding selection/special grade



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in the post of Middle School Headmaster, by taking into account of the petitioner's entire service rendered prior to 01.06.1988.

2. The case of the petitioner is that he was appointed as Higher Grade Teacher in Panchayat Union Elementary School on 25.11.1975, and upgraded as Secondary Grade Teacher on 01.06.1978, and also awarded selection grade and special grade on 01.01.1988 and 21.03.1998 respectively. He was promoted to the post of Secondary Grade Headmaster on 23.12.1998. He was further promoted to the post of Graduate Headmaster in Middle School on 01.06.2000. He retired from service on 31.05.2004 as Graduate Headmaster in Panchayat Union Middle School. Since the teachers, similarly placed to that of the petitioner, had obtained selection/special grade as on 01.06.1988 in the post of Middle School Headmaster based on G.O.Ms.No.210, School Education Department, dated 14.08.2009, and G.O.Ms.No.146, School Education Department, dated 19.06.2012, and also based on the orders of this Court, the petitioner made a representation before the Block Educational Officer, Aranthangi, fifth respondent herein, for granting similar benefits to him on 11.11.2015. Since the said representation was not considered, the petitioner preferred W.P.(MD) No.6256 of 2016 before this Court for a direction to dispose of his representation, dated 11.11.2015, within a stipulated time.



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In the said writ petition, this Court directed the respondents to dispose of the said representation, vide order, dated 30.03.2016. Thereafter, the fifth respondent passed an order on 11.10.2018, rejecting the petitioner's request to extend the benefits of G.O.Ms.No.210, dated 14.08.2009. Hence, this Writ Petition.

3. Learned counsel, appearing for the petitioner, would submit that the issue involved in this writ petition is covered and settled by Division Bench judgments of this Court in W.A.(MD) No.1420 of 2017, dated 20.11.2017, and W.A.(MD) No.2793 of 2018, dated 02.01.2019. He would further submit that G.O.Ms.No.210 did not mandate the petitioner to complete 20 years of service, as stated in the impugned order. He would also submit that as per the decision of this Court in W.A.(MD) No.1420 of 2017, the teachers involved had been appointed only in the year 1980, whereas the petitioner was appointed as Secondary Grade Teacher on 01.06.1978 itself. Further, he would submit that the post of Middle School Headmaster became a promotional post with effect from 01.10.1970, on awarding higher scale of pay as per the recommendations of the Second Pay Commission from 10.10.1970. Since the said post became a promotional post, seniority in the cadre of Secondary Grade Teacher was relevant for making promotion to the post of Middle School Headmaster as per Section of the Panchayat Union



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Establishment Rules, which stipulated that any promotion should be made on the ground of seniority. The learned counsel submits that G.O.Ms.No.210 was discriminatory and violative of Articles 14 and 16 of the Constitution of India. Therefore, restoration of benefits was discriminatory and even the deceased Government servant, namely, the legal heirs of the petitioner's father, were entitled for extension of the benefits given in G.O.Ms.No.210. To strengthen his contentions, the learned counsel relied upon a Full Bench decision of this Court in *The Government of Tamil Nadu, rep. by the Secretary, School Education Department, Chennai, v. G.Eswaran and Others*, reported in 2017 (2) MLJ 257 (FB), to show that whenever a Government Order is issued to particular Government employees, the said benefit can also be extended to similarly placed employees. He also relied upon a Division Bench decision of this Court in W.A.No.2793 of 2018, dated 02.01.2019, in the case of *The Government of Tamil Nadu, rep. by Secretary to Government, School Education Department, Chennai, v. M.S.Gomathi*, to show that G.O.Ms.No.210 was extended to the similarly placed employees. The learned counsel further relied upon another Division Bench decision of this Court in W.A.No.34 of 2017, dated 03.01.2019, to show that the benefit of G.O.Ms.No.210 was extended to similarly placed employees.



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4. Per contra, learned Additional Government Pleader, appearing on behalf of the respondents, would submit that the petitioner was appointed as Higher Grade Teacher in Panchayat Union Elementary School on 25.11.1975. His post was upgraded as Secondary Grade Teacher on 01.06.1978. Therefore, he was awarded selection grade on 01.01.1988 and awarded special grade on 21.03.1998, at the post of Secondary Grade Teacher. He would further submit that, later, the petitioner was promoted as Primary School Headmaster on 23.12.1998 and, thereafter, as Middle School Headmaster on 01.06.2000. He would also submit that G.O.Ms.No.210 was passed only to implement the order passed in writ petitions in W.P.Nos.29626 and 29624 of 2005, dated 15.09.2005, which was confirmed by a Division Bench of this Court in W.A.No.233 of 2008, vide its order, dated 21.04.2008. According to him, G.O.Ms.No.210 was applicable only to 65 teachers, but not to the petitioner herein, and, therefore, the petitioner cannot claim the said benefit. To strengthen his contentions, the learned Additional Government Pleader would rely upon a Division Bench decision of this Court in W.A.(MD) No.478 -480 of 2015, dated 31.07.2023, to show that G.O.Ms.No.210 gave the benefit, by counting both the services of Secondary Grade Teacher and Primary School Headmaster, for the persons, who were holding the post of



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Middle School Headmaster as on 01.06.1988. The learned Additional Government Pleader would also submit that G.O.Ms.No.210 was passed in the year 2009, whereas the petitioner initially filed writ petition in the year 2016 and retired from service in the year 2004, and, therefore, the claim of the petitioner was hit by laches. He also drew the attention of this Court to paragraph 5 of the counter affidavit filed by the fourth respondent. He, accordingly, prayed for dismissal of the writ petition.

5. Learned counsel for the petitioner would submit that cause of action is a continuous one and the same is clearly observed in the judgment in W.A.2793 of 2018, cited supra.

6. I have heard the rival submissions made on either side and also perused the material available on record.

7. Admittedly, the petitioner was appointed as Higher Grade Teacher in Panchayat Union Elementary School on 25.11.1975. His post was upgraded as Secondary Grade Teacher on 01.06.1978. He was awarded selection grade on 01.01.1988 and special grade on 21.03.1998. Thereafter, he was promoted to the post of Secondary Grade Headmaster on 23.12.1998 and further to the post of Graduate Headmaster in Middle School on 01.06.2000. He retired from service on 31.05.2004.



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8. A perusal of G.O.Ms.No.210, dated 14.08.2009. would go to show that it was passed only to implement the order passed by this Court in W.P.Nos.29626 and 29624 of 2005, dated 15.09.2005, which was also confirmed by a Division Bench, vide an order, dated 21.04.2008, in W.A.No. 233 of 2008. The said G.O. was clear that the benefit therein was given, by counting both the services, namely, Secondary Grade Teacher and Primary School Headmaster, for the persons, who were holding the post of Middle School Headmaster as on 01.06.1988 alone. In the case on hand, the petitioner was holding the post of Secondary Grade Teacher as on 01.06.1988. Therefore, extension of benefit under G.O.Ms.No.210, dated 14.08.2009, was not applicable to the petitioner. In that view of the matter, the fifth respondent was right in rejecting the request of the petitioner for extension of the benefit under the said G.O., vide the order impugned.

9. Writ Petition is, accordingly, dismissed. No costs. Consequently, the connected W.M.P.(MD) No.2602 of 2019 is closed.

20.02.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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M.JOTHIRAMAN, J.

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