



W.P.(MD) No.27341 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.02.2025

CORAM:

THE HONOURABLE Mr.JUSTICE BATTU DEVANAND

W.P.(MD)No.27341 of 2024

K.Durairaj

... Petitioner

Vs.

1.The Principal Secretary to the Government,
School Education [Pa.Ka.5(1)] Department,
Fort St. George, Chennai – 9.

2.The Director of Elementary Education,
DPI Campus, Chennai – 6.

3.The Chief Educational Officer,
Tenkasi District.

4.The District Educational Officer (Elementary),
Tenkasi, Tenkasi District.

5.The Block Educational Officer – II,
Melaneelithanallur Block,
Tenkasi District.

.. Respondents



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PRAAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the order dated 07.10.2024 made in Na.Ka.No.609/A3/2024 passed by the fifth respondent and quash the same as illegal, consequently, direct the fifth respondent to sanction Special Grade Pay to the petitioner with effect from 07.06.2020 and revise the scale of pay of the petitioner with all consequential benefits including arrears within time stipulated by this Court.

For Petitioner : Mr.D.Venkatachalam

For Respondents : Mr.M.Siddharthan

Additional Government Pleader

ORDER

This Writ Petition has been filed seeking to quash the order dated 07.10.2024 made in Na.Ka.No.609/A3/2024 passed by the fifth respondent and for a consequential direction to the fifth respondent to sanction Special Grade Pay to the petitioner with effect from 07.06.2020 and revise the scale of pay of the petitioner with all consequential benefits including arrears.



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2. Heard the learned Counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

3. The petitioner was initially appointed as Secondary Grade Teacher on 02.08.1995 and he was promoted as Primary School Headmaster on 07.06.2000. After completion of 10 years of service in the said post, he was awarded Selection Grade in the post of Primary School Headmaster on 07.06.2010. Subsequently, he was promoted as B.T.Assistant (Tamil) on 29.06.2012 and thereafter, he was promoted as Middle School Headmaster on 11.03.2013. Thereafter, he was reverted from the post of Middle School Headmaster to Primary School Headmaster due to the fact that Middle School was upgraded to High School. Again he was promoted as Middle School Headmaster on 27.01.2022. Till date, he is holding the same post. The petitioner has submitted an application seeking for the Special Grade with effect from 07.06.2020 ie., on completion of 20 years of service in the post of Primary School Headmaster. His request was rejected by the fifth respondent by passing the impugned order in Na.Ka.No.



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609/A3/2024 dated 07.10.2024, stating that the Special Grade can be granted only for those who have rendered twenty years of continuous service in the same cadre and as such, the petitioner's claim was rejected on the ground that he had held three different cadres within 20 years and he occupied nearly five years in the post of Middle School Headmaster, prior to reversion to Primary School Headmaster. Aggrieved by the order dated 07.10.2024, the petitioner is constrained to file the present writ petition.

4. On behalf of the respondents, counter affidavit has been filed. It is stated in the counter that there are no provisions to count the period held by a person in three different cadres for granting Special Grade in the Primary School Headmaster post.

5. Learned Additional Government Pleader appearing for the respondents would submit that the services of the petitioner between 2010 and 2020 cannot be treated as continuous service period as Primary School Headmaster, for the purpose of counting of service in respect of granting of special grade. Accordingly, he contends that the reasons set forth in the impugned order dated 07.10.2024 is valid and the petitioner is not entitled to be granted



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special grade with effect from 07.06.2020. He further submits that as per the Government order passed in G.O.(Ms).No.68, Personnel & Administrative Reforms (Per-M). Department dated 23.01.1986, for advancement from the selection grade to special grade, an employee who had put in 10 / 20 years of service in a particular post alone shall be eligible. He further contends that the said period of 10 years or 20 years shall only be enacted from the date of appointment in the said post. According to the same, since the petitioner was promoted and facing reversion and he has not completed 10 / 20 years in the same post, he is not eligible to claim to include reversion period and promotional post period for consideration of granting special grade and accordingly, he sought to dismiss the present writ petition.

6. Learned Counsel for the petitioner relying on the order dated 08.01.2024 in W.P.(MD)No.28401 of 2023, passed by this Court, would submit that there is no fault on the part of the petitioner. The petitioner originally served as Primary School Headmaster and thereafter, he was promoted as Middle School Headmaster and then reverted back to the post of Primary School Headmaster exclusively for administrative reasons. Learned



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Counsel also contends that if the petitioner had been allowed to continue in the post of Primary School Headmaster, he would have been completed service for a period of 20 and nothing would have become an impediment for him for the grant of special grade.

7. On a perusal of the order in W.P.(MD)No.28401 of 2023 dated 08.01.2024, it appears that the issue involved in this Writ Petition is no more *res integra*. This Court has dealt with a similar matter in W.P.(MD)No.9598 of 2015 dated 10.11.2022, in which, it was held that the petitioner is entitled for consideration for grant of special grade. Against the said order, a Writ Appeal has been filed in W.A.(MD)No.434 of 2023 and a Division Bench of this Court by its judgment dated 20.04.2023, has dismissed the said Writ Appeal. The relevant portion of the Division Bench order is extracted hereunder:

“2.The Writ Court has found that the petitioner was working as a Primary School Headmaster was promoted as a Middle School Headmaster and thereafter, reverted as a B.T.Assistant Tamil and again promoted as a Middle School Headmaster and again reverted as a Primary School Headmaster and again promoted as a Middle School Headmaster and



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again reverted as a Primary School Headmaster and again promoted as a Middle School Headmaster on 22.12.2011. All these promotions and reversions have taken place between the years 2007 and 2011. The Writ Court has specifically found that all these promotions and reversions have been made because of want of vacancy, which is not fault of the petitioner. If only the petitioner has not been wrongly promoted and rightly reverted, she would have continued to function as a Primary School Headmaster from 1998 to 22.12.2011. She would have been definitely entitled to Selection Grade in the post of Primary School Headmaster. The Writ Court has granted the said relief only. Hence, we do not find any reason to interfere with the order of the Writ Court."

8. By following the said order and on a careful perusal of the materials available on record and having considered the submissions of the learned Counsel on either side, this Court is left with no option except to follow the earlier orders stated supra, to meet the ends of justice.



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9. For the aforesaid reasons, this Writ Petition is allowed with the following direction:

(i) The impugned order dated 07.10.2024 issued by the fifth respondent is hereby quashed.

(ii) The fifth respondent is directed to sanction Special Grade to the petitioner with effect from 07.06.2020 with all consequential benefits.

(iii) The said exercise shall be completed within a period of two [2] months from the date of receipt of a copy of this order.

There shall be no order as to costs.

05.02.2025

NCC : Yes/No

Index: Yes/No

Internet : Yes

MR



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BATTU DEVANAND, J.

MR

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