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Court : Chennai Madurai

Decided On : Dec-09-2015

Judge : D. Hariparanthaman

Appeal No. : Writ Petition (MD)Nos. 21686 to 21688 of 2015

Appellant : A. Subbiah and Others

Respondent : The State of Tamil Nadu, rep.by its Secretary and Others

Judgement :

(Prayer: Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein to sanction and award forthwith Special Grade and Special Grade to the petitioners in the post of Primary School Headmaster by reckoning and computing the petitioner's service rendered in the cadre of Secondary Grade Teacher from 01.06.1976 to 31.05.1988, 05.03.1971 to 31.05.1988 and 01.06.1974 to 31.05.1988 respectively on par with the similarly placed persons for whom such benefits have been sanctioned under G.O.Ms.No.234 (School Education (G2) Department) dated 10.09.2009.)

Common Order

1. Since the issue involved in all the writ petitions are one and the same, they are all taken up together and disposed of by a common order.

2. The petitioners in all these writ petitions worked as Secondary Grade Teachers in the respective Panchayat Union Schools. The petitioners in W.P.(MD).No.21686 to 21688 of 2015 joined as Secondary Grade Teacher on 01.06.1976, 05.03.1971 and 01.06.1974 and promoted as Primary School Headmasters, on 06.09.1995, 07.06.1991 and 22.06.1989, respectively.

3. The grievance of the petitioners are that they should be granted Selection Grade/Special Grade by counting the services rendered by them as Secondary Grade Teachers, when they were promoted as Primary School Headmasters, since they have joined the service as Secondary Grade Teacher before 01.06.1988.

4. When these matters came up for admission on 04.12.2015, the learned Counsel appearing for the petitioners submitted that the matters are covered by various judgments of this court that are enclosed in the typed set of papers. Therefore, the learned Government Advocate was directed to get instructions and listed the matters under the caption 'for orders' today.

5. The learned Counsel appearing for the petitioners submitted that the entire history about the grant of Selection Grade and Special Grade for promotion by counting the service rendered as Secondary Grade Teacher were considered in W.P.No. 25001 of 2012 dated 11.11.2014 and therefore, the issue involved in the writ petitions are no longer res integra. Ultimately, he prayed this Court for allowing the writ petitions.

6. Per contra, the learned Government Advocate has vehemently contended that the petitioners have approached this Court belatedly and therefore, these writ petitions shall be rejected on the ground of laches alone.

7. I have considered the submissions made on either side.

8. At the outset, the post of Secondary Grade Teachers as well as Primary School Headmasters carried the same scale of pay before 1.6.1988.

Pursuant to the fifth pay commission recommendations, that came into effect from 01.06.1988, the post of Primary School Headmasters became a promotional one

to the post of Secondary Grade Teacher, after 01.06.1988. Before 01.06.1988, the juniors were posted as Primary School Headmasters, since both the posts, namely, the Secondary Grade Teacher and Primary School Headmasters carried the same scale of pay. When the Primary School Headmasters became promotional post from 01.06.1988, the Government ought to have directed the educational authorities to draw the seniority list and the juniors who were occupying the post of Primary School Headmasters ought to have been reverted and the seniority could have been posted in that posts. But the same did not take place which resulted in several litigations.

Ultimately, the Government issued various orders including G.O.Ms.No.234 School Education Department dated 10.09.2009 by implementing the orders of this Court and granting Selection Grade/Special Grade to the Primary School Headmasters by counting the service rendered in the post of Secondary Grade Teachers, if those Secondary Grade Teachers joined before 01.06.1988. Therefore, I am of the view that the crucial issue to be decided in the writ petitions is that as to whether the petitioners joined before 01.06.1988 as Secondary Grade Teacher or not?

9. Undoubtedly, in all the cases, the petitioners joined as Secondary Grade Teachers before 01.06.1988 and promoted to the post of Primary School Headmasters, thereafter. Therefore, the petitioners are entitled to Selection Grade/Special Grade by counting the service rendered in the post of Secondary Grade Teacher. But, the same was not granted to them. When hundreds and thousands of Primary School Headmasters were granted such relief, the respondent authorities ought to have extended the same relief to the petitioners also and the Government cannot make a technical plea that the petitioners have approached this Court, belatedly. Since it is a right that has accrued to the petitioners pursuant to the various orders of this Court, I am of the view that the petitioners are entitled to the same relief. Infact, the Government is the beneficiary since the money of the petitioners is with them for all these years without any rhyme or reason. Furthermore, as rightly contended by the learned Counsel appearing for the petitioners that the issue has been elaborately dealt with in the order dated 11.1.2014 made in W.P.No.25001 of 2012.

10. In view of the same, these writ petitions are allowed and a direction is issued to the second respondent to send proposals to the first respondent for grant of Selection Grade/Special Grade in the post of Primary School Headmasters to the petitioners from the date of their respective promotions as Primary School Headmasters by counting the services rendered as Secondary Grade Teachers, with all monetary benefits, within a period of eight weeks from the date of receipt of a copy of this order. On receipt of the proposals, the first respondent is directed to grant Selection Grade / Special Grade to the petitioners in the post of Primary School Headmasters, within a period of eight weeks, thereafter.

Accordingly all these writ petitions are allowed. No costs.

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