
(2011) 08 MAD CK 0207

In the Madras High Court

Case No : Writ Petition No. 5963 of 2007 (O.A. No. 2400 of 2002)

D. Neelakandan

APPELLANT

Vs

The Government of Tamil Nadu

RESPONDENT

Date of Decision : 03-08-2011

Acts Referred:

Citation : (2011) 08 MAD CK 0207

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : A.R. Suresh, for M. Sundaravadanam, for the Appellant; P. Karthikeyan, Government Advocate for M.C. Swamy, Special Govt. Pleader, for the Respondent

Judgement

D. Hariparanthaman, J.—The Petitioner was appointed as a Secondary Grade Assistant Teacher at K.L.K. Board Higher Elementary School on 16.08.1954. He was promoted as Head Master of a Panchayat Union Primary School on 08.07.1959. He worked at different schools under the same Panchayat Union till 11.06.1968. On 12.6.1968 he was posted as Higher Elementary School (Middle School) Head Master and was continuing as such till 11.6.1970. He was posted as Primary School Head Master on 12.6.1970 and continued as such till 13.6.1971. Again he continued as Middle School Head Master from 14.6.1971 till the date of superannuation. He retired from service on 30.09.1986 as Middle School Head Master. The Petitioner claimed Selection Grade and Special Grade in the post of Middle School Head Master by counting the services in the post of Primary School Head Master as per G.O. Ms. No. 1178, Education Department, dated 22.12.1993. But the same was declined by the second Respondent in the impugned order dated 15.11.2001. The Petitioner filed O.A.2400/2002 (W.P. No. 5963/2007 to quash the order dated 15.11.2001 of the second Respondent and to grant him Selection Grade/Special Grade by counting the service rendered by him as Primary School Headmaster and Middle School Headmaster as per G.O. Ms. No. 1178.

2. No. counter affidavit is filed by the Respondents.

3. Learned Government Advocate has made his submissions based on the instructions from the Respondents.

4. Learned Counsel for the Petitioner submits that prior to 2.10.1970, the post of Secondary Grade Teacher, Primary School Head Master, and Elementary School Head Master carried the same scale of pay. He has relied on paragraph 2 of the judgment of the Apex Court dated 01.03.1989 in Civil Appeal No. 994 of 1980. He has also relied on a passage in Paragraph No. 6 of the G.O. Ms. No. 1178, supra, and has submitted that total service in the post of Headmaster in Middle School and Headmaster in the Primary Schools should be taken into account for granting Selection Grade and Special Grade.

5. On the other hand, learned Government Advocate sought for dismissal of the writ petition. He has submitted that there is No. infirmity in the impugned order.

6. I have heard the counsel on either side.

7. The Petitioner was promoted as Head Master of a Panchayat Union Primary School on 8.7.1959. He was posted as Headmaster of Middle School on 12.6.1968. Again he was posted as Headmaster of Primary School on 12.6.1970. He continued as Headmaster of a Primary School till 13.6.1971. Again he was posted a Headmaster of a Middle School on 14.6.1971. He continued as Headmaster of a Middle School and retired on 30.09.1986 and he was allowed to continue till the end of academic year 31.05.1987.

8. It is brought to my notice that the post of Secondary Grade Teacher, Primary School Head Master, and Elementary School Head Master carried the same scale of pay. Learned Counsel for the Petitioner relied upon second paragraph of the judgment of the Apex Court in Civil Appeal No. 994 of 1980 and the same is extracted hereunder:

2. Panchayat Union Councils came into existence under Tamil Nadu Panchayat Act, 1958. Teachers were employed by the Panchayat Union Councils to run the schools established by these councils all over the State of Tami Nadu. Prior to 2nd of October 1970 there was No. separate post of Headmaster in these primary and middle standard schools. There was No. separate cadre of headmasters and both the posts carried the same scale of pay. Appointment to the post of headmaster was not considered promotion.

9. It is made clear that there is No. separate post of Headmaster in the Primary and Middle Schools before 2.10.1970.

10. In these circumstances, the Government issued G.O. Ms. No. 1178 Education Department, dated 22.12.1993, granting Selection and Special Grade to the Middle School Headmasters by counting the services rendered by them as Headmasters in Primary Schools and Middle Schools. The relevant passage in paragraph No. 6 of the said G.O. Ms. No. 1178, dated 22.12.1993 is extracted

hereunder:

...further, Headmasters, middle school who were acting in the post of Headmaster, middle school prior to and after 1.10.70 shall also be allowed above selection grade/special grade taking into account the total service in the post of Headmaster.

As per the said passage, for counting the period of service to the Selection and Special Grade of Middle School Headmasters, the G.O. directs the authorities to take into account the total service of "Headmasters". G.O. contemplates the counting service of both Primary and Middle School Headmasters as both carried the same scale of pay. Therefore, the impugned order is liable to be quashed. Accordingly, it is quashed. The Respondents are directed to grant Selection Grade and Special Grade to the Petitioner in the post of Middle School Headmaster by counting the service rendered by him in the post of Primary School also prior to and after 1.10.1970. The Respondents are directed to complete the above said exercise within a period of six weeks by paying the monetary benefits to the Petitioner. No costs.