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(2015) 04 MAD CK 0360

In the Madras High Court

Case No : Writ Petition Nos. 27839, 27844, 27845, 27840, 26734 and 30866 of 2014, 5431, 5541, 5464, 5432, 6760, 6262, 6722, 7312, 7358, 5624 to 5626, 6810, 8593 to 8595, 8417, 6123, 6124, 6924, 6935, 6936, 7139 to 7143, 7851, 8919, 8783, 8426 to 8434 and 8825 of 20

M. Dhanam and Others — APPELLANT

Vs

State of Tamil Nadu and Others — RESPONDENT

Date of Decision : 06-04-2015

Acts Referred:
Constitution of India, 1950 — Article 14, 226, 32

Citation : (2015) 04 MAD CK 0360

Hon'ble Judges : V. Dhanapalan, J;R.S. Ramanathan, J

Bench : Division Bench

Advocate : R. Viduthalai, Senior Counsel for V. Thirupathi, for the Appellant; AL. Somayaji, Advocate General, assisted by R. Rajeswaran, Special Govt. Pleader for D. Krishnakumar, Special Govt. Pleader assisted by K. Karthikeyan, Government Advocate, Advocates for

Judgement

V. Dhanapalan, J—Heard the respective learned Senior Counsel/learned counsel appearing for the writ petitioners and Mr. AL. Somayaji, learned Advocate General assisted by Mr. R. Rajeswaran, learned Special Government Pleader for Mr. D. Krishnakumar, learned Special Government Pleader and Mr. K. Karthikeyan, learned Government Advocate appearing for the respondents-State.

2. All these Writ Petitions arise out of the benefits granted under the Government Order in G.O. Ms. No. 216, Finance (PC) Department, dated 22.03.1993, which has been earlier dealt with by this Court in a batch of Writ Appeals and Writ Petitions in W.A. No. 352 of 2014, etc. batch and by judgment dated 04.02.2015, this Court disposed of the said batch of cases.

3. The claim of the writ petitioners is for extension of benefits to the similarly placed persons as per the said G.O. Ms. No. 216 and in some cases, the writ petitioners have also challenged the consequential orders of the Government in

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G.O. Ms. No. 69, School Education (M1) Department, dated 18.04.2013 and G.O. Ms. No. 270, Finance (PC) Department, dated 26.08.2010, and in some cases, the rejection letters of the Government have also been challenged and accordingly, all the writ petitioners have sought for extension of benefits in the light of the orders passed by this Court, which was confirmed by the Supreme Court and prayed that the benefits as arising out of the Government''s scheme as ordered in G.O. Ms. No. 216, could be extended to the present batch of writ petitioners also. This Court has, in the said batch of Writ Appeals/Writ Petitions, granted the benefits as observed therein, leaving it open for the State to take a decision in accordance with law, as to the period of entitlement with regard to the claim of arrears for the period taken by the individuals in the matters in making a belated approach. Therefore, the question that arose for consideration as to the extension of the scheme of the Government to the present writ petitioners, is no longer res-integra, in view of the decision rendered by this Court in the said batch of cases on 04.02.2015. Accordingly, we dispose of the present batch of Writ Petitions also, as observed by this Court in the said batch of cases in W.A. No. 352 of 2014, etc. batch, by judgment dated 04.02.2015, relevant portion of which reads as follows:

"14. We have gone through the voluminous records available with the case bundles.

15. The whole controversy in these cases revolves around G.O. Ms. No. 216, Finance (Pay Cell) Department, dated 22.03.1993. The said G.O. reads as under :

"GOVERNMENT OF TAMIL NADU ABSTRACT Tamil Nadu Revised scales of Pay Rules, 1989 -Selection/Special Grades in the revised pay scales- executive instructions-issued.
---------- FINANCE (PAY CELL) DEPARTMENT

G.O. Ms. No. 216

Dated 22.3.1993. Aangeerasa, Panguni 9, Thiruvalluvar Aandu, 2024. Read :

1. G.O. Ms. No. 666, Finance (PC) Department, dated 27.6.89.

2. G.O. Ms. No. 304, Finance (PC) Department, dated 28.3.90.

3. Govt. Finance Department, letter No. 10181/PC-II/91-91 dated 20.2.91.

4. From the Directions of the Tamil Nadu Administrative Tribunal in O.A. No. 1625 of 91 and order dated 13.11.93.

5. G.O. Ms. No. 215, Finance(PC) Department, dated 22.3.93.

ORDER :

In the Government Order second read above, Orders are issued reintroducing Selection Grade and Special Grade in the improved scales of pay. It has also been ordered that the Selection Grade should be restricted to the promotion post

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scale of pay. Accordingly, the Selection Grade Scale of pay for Office Assistants has been restricted to Rs. 775-1039, the pay scale of their promotion post viz., Record Clerk.

2. In its judgment delivered, the Tamil nadu Administrative Tribunal in O.A. No. 1625 of 92 filed by Tamilnadu Government Office Assistants and Basic Servants Association, has observed that the post of Record Clerk is not an avenue of promotion for Office Assistants for the reason that only persons with the prescribed qualification are appointed by transfer to the post of Record Clerk. Hence, the Tribunal has ordered that the proviso to para 4 of the G.O. Ms. No. 304, Finance (PC) Department dated 28.3.90 will not be applicable to Office Assistants. The Tribunal has also pointed out the special dispensation shown to the Teachers in the matter of Selection Grade. The Tribunal has therefore set aside the entire para 4 of the Government Order second read above and ordered that, it is open to Government to issue orders afresh by suitably incorporating the basis that Selection Grade for a post cannot be higher than that of the promotion post so as not to leave room for any ambiguity and to provide for special cases when appointment to higher post in the hierarchy in the department is not by promotion but by transfer. Accordingly, orders were issued in the Government Order fifth read above.

3. The above directions of the Tribunal has been examined by the Government and it has been decided to issue the following orders to protect certain special categories in the matter of awarding Selection Grade. (i) Government accept the direction of the Tribunal that the post of Record Clerk is not a regular promotion post for the Office Assistants for the reasons that only persons with the prescribed qualification are appointed to the post of Record Clerk by transfer. Accordingly, Government direct that the proviso to para 4 of the G.O. Second read above as modified in G.O. fifth read above shall not be applicable to the post of Office Assistant and they shall be allowed Selection/Special Grades as in Annexure-I to the G.O. second read above.

(ii) In respect of Secondary Grade Teachers in High Schools there is no promotion post for them as on 28.3.90 (i.e. the date of issue of the G.O. Second read above), although there is promotion post in Primary Schools. As a measure of uniformity in respect of all Secondary Grade Teachers, Government direct that the Teachers be made eligible for Selection/Special grades as in Annexure-I to the G.O. second read above.

(By order of the Government) N. NARAYANAN, SECRETARY TO GOVERNMENT"

16. This Court has dealt with the issues connected to the above G.O. on many an occasion. That being the position, the order of a Division Bench of this Court in W.P. No. 8747 of 2009, dated 14.07.2009, is much relevant. Therefore, we feel it necessary to extract the entire order of the said Division Bench, for disposal of this huge batch of cases. The said order goes thus :

"The petitioners have filed the writ petition for the issuance of a writ of certiorari

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to call for the records relating to O.A. No. 8276 of 1997 dated 07.10.1998 on the file of Tamil Nadu Administrative Tribunal and to quash the same.

2. The 1st respondent herein was appointed as Higher Grade Teacher in the Board Primary School in the year 1955 and he worked as Primary School Headmaster in Board Primary School, Annur and thereafter, he was transferred to Board High School, Unjalur, in the year 1959 and from 1967 onwards he worked as Secondary Grade Teacher in Government High Schools. Lastly, he worked as Secondary Grade Teacher in Government Higher Secondary School, Kundadam, Erode District. He was awarded Selection Grade in the post of Secondary Grade Teacher with effect from 01.07.1974 and he was given Special Grade in the post of Secondary Grade Teacher on 01.06.1981.

3. As far as the Secondary Grade Teachers working in High/Higher Secondary Schools are concerned, there is no promotional opportunity and they served only as Secondary Grade Teacher throughout their service. The Government, while re-introducing Selection Grade/Special Grade with improved scale of pay as per G.O. Ms. No. 304, Finance (Pay Commission) Department, dated 28.03.1990, have directed that the Selection Grade/Special Grade pay shall be restricted to the scale of pay prescribed for the promotion post. In order to remove certain ambiguity in awarding Selection Grade/Special Grade pay in respect of the posts for which there is no promotional opportunity, the Government have issued G.O. Ms. No. 215, Finance (Pay Commission) Department, dated 22.03.1993 introducing uniform scale of pay for all the Secondary Grade Teachers and as per Annexure-1, the Ordinary Grade, Selection Grade and Special Grade scales of pay are fixed at Rs. 1400-2600, 1640-2900 and 2000-3200 respectively, based on which, the 1st respondent claims entitlement for those scales of Selection Grade and Special Grade.

4. According to the petitioners herein, the 1st respondent''s pay was fixed at Rs. 1640-60-2600-75-2900 in terms of the orders issued in G.O. Ms. No. 215, Finance (Pay Commission) Department, dated 22.03.1993 and the pension was also fixed accordingly. But the 1st respondent approached the Tribunal by filing O.A. No. 8276 of 1997 seeking a direction to refix his scale of pay at Rs. 2000-60-2300-75-3200 prescribed for the post of Primary School Headmaster (Special Grade) and pay arrears and consequential benefits on such refixation with effect from 01.06.1988.

5. Before the Tribunal, the applicant/1st respondent herein has pleaded that teachers, who are in the same grade and are doing similar work, were given the scale of pay of Rs. 2000-3200, whereas, the applicant was paid only Rs. 1640-2900. The applicant also relied on the earlier decision of the Tribunal dated 08.05.1996 in O.A. Nos. 1113 to 1133 of 1995, wherein the Tribunal pointed out that the Government extended the Selection/Special Grade Pay scales to the applicants like Secondary Grade Assistant Teachers appointed in the High School and having more than 10 to 20 years of service and also issued G.O. Ms. No. 216, Finance (Pay Commission) Department, dated 22.03.1993 extending the

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benefits awarded in the aforesaid G.O. to the applicants therein and pay was directed to be refixed in terms of the said G.O.

6. The Tribunal, on consideration of the aforesaid facts and circumstances of the case, allowed the original application with a direction to the respondents therein to refix the scale of pay of the applicant as Rs. 2000-3200 with effect from 01.06.1988 in terms of G.O. Ms. No. 216, Finance (PC) Department, dated 22.03.1993 and further directed that all the pay arrears are to be disbursed within a period of three months from the date of receipt of that order.

7. Aggrieved of the said order of the Tribunal, the petitioners have filed the present writ petition with the aforesaid prayer.

8. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the 1st respondent.

9. The learned Special Government Pleader appearing for the petitioners submitted that in view of the judgment of the Supreme Court dated 29.10.1998 made in C.A. No. 4582 of 1992, the 1st respondent herein, who worked as Secondary Grade Teacher in High School and belonged to Secondary Educational Service, cannot draw any analogy with the Secondary Grade Teachers working in Primary Schools coming under different service for the purpose of claiming pay fixation. It is also submitted that the 1st respondent is not having any right whatsoever to claim pay fixation on par with the Secondary Grade Teachers working in Primary Schools and got promotion as Primary School Headmaster merely on the ground that such promotional opportunity is not available for the Secondary Grade Teachers working in High Schools and belong to Secondary Educational Service. It is further submitted that to be eligible for Selection/ Special Grade, the 1st respondent has to serve in the same post for a period of 10 years/20 years respectively and in the instant case, the 1st respondent never completed 10 years/20 years of service in the post of Primary Headmaster to be eligible for Selection Grade/Special Grade. In view of the aforesaid reasons, the learned Special Government Pleader submitted that the order passed by the Tribunal is liable to be set aside.

10. The learned counsel appearing for the 1st respondent submitted that against the common order passed by the Tribunal in O.A. Nos. 7908 and 8276 of 1997, dated 07.10.1998, a review petition was filed before the Tribunal in R.A. No. 182 of 2002 and the same was dismissed on 05.12.2002, against which, a writ petition, W.P. No. 17187 of 2003, was filed before a Division Bench of this Court, in which, Justice Elipe Dharma Rao was a party and the writ petition was dismissed by order dated 28.11.2007, holding that when the review petition is dismissed, the said order merges with the order passed in O.A. No. 8276 of 2007 and hence, the writ petition filed against the review petition is not maintainable. According to the learned counsel for the 1st respondent, thereafter, a contempt application in C.A. No. 170 of 2009 was filed for implementation of the order of the Tribunal and notice was ordered to the respondents on 13.04.2009.

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According to the learned counsel for the 1st respondent, though the limitation starts from the date of dismissal of the original application, viz., 07.10.1998, the Government, after a period of 11 years, filed the present writ petition and obtained an order of interim stay on 30.04.2009. The learned counsel for the respondent vehemently contended that the writ petition is liable to be dismissed on the ground of inordinate and unexplained delay.

11. We have perused the entire materials placed on record. When the Tribunal has passed an order, which is impugned in the writ petition, based on its earlier judgment dated 08.05.1996 in O.A. Nos. 1113 to 1133 of 1995, the Officer, who has taken a decision to file the present writ petition, should have considered that there is no point in filing the present writ petition against a covered matter. By taking such a decision to file a writ petition against the order passed by the Tribunal following its own earlier judgment, which has become final, the Officer has driven the 1st respondent to Court and to engage a counsel more so, after the date of his retirement, i.e., 31.08.1993.

12. In similar circumstances, a Division Bench of this Court, in a judgment reported in Secretary to Government, Health Department, Government of Tamil Nadu, Chennai and others v. Dr. P.A. Adalarasu and others {(2006) 1 M.L.J. 696}, dismissed the said petition, which was filed after expiry of four years, with an observation that even though there is no period for filing writ petition is specified it is well settled in law, that such a writ petition is required to be filed as expeditiously as possible without discernible delay, laches or acquiescence.

13. In the instant case, the writ petition has been filed after expiry of 11 years. As submitted earlier, a retired school teacher was driven to approach the Tribunal by filing the original application for extension of benefits granted under G.O. Ms. No. 216, Finance (PC) Department, dated 22.03.1993 in his favour and after obtained the order from the Tribunal, the respondents therein filed a review petition. After the dismissal of the review petition, they have again driven the 1st respondent to file a contempt petition for implementation of the order passed by the Tribunal in O.A. No. 8276 of 1997. But on receiving notice in the said contempt petition, the respondents therein have chosen to file the present writ petition and obtained an order of interim stay of operation of the order of the Tribunal and thereby causing great prejudice to the applicant/1st respondent herein and further depriving him to have the fruits of the order passed by the Tribunal as early as in 1998.

14. In such circumstances, the Hon''ble Supreme Court has observed that while the right to move the Supreme Court under Article 32 of the Constitution of India is itself a fundamental right, the right to move the High Court under Article 226 of the Constitution of India is one calling for the exercise of discretionary power. Bearing this in mind, if we look into the law laid down by the Hon''ble Supreme Court, while construing limitation for filing a Writ Petition, reported in Chandra Bhushan and Another Vs. Deputy Director of Consolidation (Regional), U.P. and Others, AIR 1967 SC 1272 : (1967) 2 SCR 286 it has been held that ordinarily in

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the absence of a specific Statutory Rule, the High Court may not be justified in rejecting a petition for a Writ of Certiorari against the Judgment of a Tribunal, if on a consideration of all the circumstances it appears that there is an undue delay. In the said case, the Hon''ble Supreme Court was considering the validity of an order passed by the Allahabad High Court which has consistently laid down a practice that the period of ninety days, which is the period fixed for appeal to the High Court from the Judgment of the Lower Court, should be taken as a period for an Application for issue of Writ of Certiorari and time can be extended only when circumstances of special nature, which are sufficient in the opinion of the Court, are shown to exist. While construing the decision of the Allahabad High Court, the Hon''ble Supreme Court observed that in the absence of Statutory Rule, the period prescribed for preferring an appeal to the High Court is a rough measure and in each case, the primary question is whether the applicant has been guilty of laches or undue delay. On the facts of the case, the Hon''ble Supreme Court interfered in the matter.

15. In yet another case reported in Kamini Kumar Das Choudhury Vs. State of West Bengal and Others, AIR 1972 SC 2060 : (1972) 2 SCC 420 : (1973) 1 SCR 718 : (1973) 5 UJ 214 , with regard to the matter pertaining to the dismissal of a public servant, the Hon''ble Supreme Court held that if a public servant wants to invoke the extraordinary remedies available under Article 226, he should come to Court at the earliest reasonably possible opportunity and every case depends upon its own facts.

16. The Hon''ble Supreme Court also, while construing the power of the Appellate Tribunals and Revisional Authorities, where no specific time limit was prescribed for preferring the appeal or revision, held that such right should be exercised within a reasonable time.

17. Therefore, the law, which emanates from these Judgments referred above, postulates that in the absence of any specific limitation for exercise of the power under Article 226 of the Constitution of India, the same has to be exercised within a reasonable time, which is a question of fact in each case and depending upon the facts and circumstances and nature of order.

18. From the dates in the instant case as given above, it is to be seen that the delay is gross and unexplained. As we have already held that in such matters, especially when Writ Petitions are filed against orders of the Tribunals, the same has to be done within a reasonable time, which in our opinion could be safely held as one year.

19. In view of the inconvenience caused to the 1st respondent by the petitioners and also in view of the fact that instead of filing the writ petition as expeditiously as possible, at least, within a reasonable time of one year from the date of the impugned order passed by the Tribunal, we consider it appropriate to hold that the writ petition is liable to be dismissed either by imposing costs or compensation of Rs. 10,000/- on the petitioners with a further caution to them

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that not to resort to this type of action of filing writ petition with abnormal delay by overburdening the Court. Moreover, on merits also, the writ petition has no legs to stand, as the learned Special Government Pleader strongly relied on ground No. (6), i.e., for extending the benefit of Selection/Special Grade, the 1st respondent has to serve in the same post for a period of 10 years/20 years, which is not contemplated in G.O. Ms. No. 216, Finance (PC) Department, dated 22.03.1993 and therefore, the said contention is irrelevant.

20. In view of the discussion made above, the writ petition is dismissed with costs of Rs. 10,000/- to be payable by the petitioners and six weeks time is granted to pay cost and to comply with the order passed by the Tribunal in O.A. No. 8276 of 1997 dated 07.10.1998. Connected M.P. is closed."

17. In the above context, it is also significant to mention that the above order of the Division Bench of this Court was upheld by the Supreme Court in a Special Leave Petition in C.C. No. 2746 of 2010, by an order dated 23.04.2010.

18. The Government of Tamil Nadu had arrived at a policy decision to reintroduce Selection Grade and Special Grade in the improved scales of pay in G.O. Ms. No. 304, Finance (PC) Department, dated 28.03.1990, wherein it was ordered that Selection Grade should be restricted to the promotion post. Accordingly, Selection Grade scale of pay for Office Assistants and the pay scale of their promotion posts namely Record Clerk had been determined. However, the matter had gone to the Tamil Nadu Administrative Tribunal, as it then was, and, on consideration, the Tribunal observed that the post of Record Clerk is not an avenue of promotion for Office Assistants for the reason that only persons with the prescribed qualification are appointed by transfer to the post of Record Clerk. Therefore, the Tribunal ordered that the proviso to para 4 of the G.O. Ms. No. 304, Finance (PC) Department dated 28.3.90 will not be applicable to Office Assistants. The Tribunal also pointed out the special dispensation shown to the Teachers in the matter of Selection Grade and set aside the entire para 4 of the Government Order as stated above and ordered that it was open to Government to issue orders afresh by suitably incorporating the basis that Selection Grade for a post cannot be higher than that of the promotion post so as not to leave room for any ambiguity and to provide for special cases when appointment to higher post in the hierarchy in the department is not by promotion but by transfer. In Clause 3 (ii) of G.O. Ms. No. 216, it has been stated that in respect of Secondary Grade Teachers in High Schools, there is no promotion post for them as on 28.3.90 (i.e. the date of issue of the G.O. second read above), although there is promotion post in Primary Schools and as a measure of uniformity in respect of all Secondary Grade Teachers, Government direct that the Teachers be made eligible for Selection/Special grades as in Annexure-I to the G.O. second read above, which is G.O. Ms. No. 304. In that context, some of the teachers moved the Tribunal by way of O.As. in O.A. Nos. 7908 and 8276 of 1997, wherein the Tribunal passed the following order :

"Applicants are Special Grade Secondary Teachers. In G.O. Ms. No. 304, Finance

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(P.C.) Department dated 28.3.90, paragraph 4 stipulates that wherever the promotion post happens to be on a lower scale of pay than the selection grade scale of pay given in Annexure-I employees in such posts are eligible for the selection grades scales as applicable to promotion post only. However, in respect of teachers the selection grade scale and special grade shall be as indicated in the Annexure I to the said order. Subsequently, in G.O. Ms. No. 215, Finance (Pay Cell) Department dated 22.3.93 executive instructions regarding selection grade/special grade in the revised pay scales have been issued. Paragraph 3 (ii) of this Government Order stipulates that in respect of Secondary Grade Teachers in High Schools there is no promotion post for them as on 28.3.90 i.e., when G.O. Ms. No. 304 dated 20.3.90 was issued, although there is promotion post in primary schools. As a measure of uniformity in respect of all Secondary Grade Teachers, Government direct that the Teachers be made eligible for Selection/ Special Grade as in Annexure I to the said G.O. Ms. No. 304, dated 28.3.90. In the annexure 1 to the said G.O. Ms. No. 304, the ordinary Grade, Selection Grade and the Special Grade scales of pay are Rs. 1400-2600, 1640-2900 and 2000-3200. respectively. So, the present applicants are entitled for these scales of selection grade and special grade. On the basis of G.O. Ms. No. 216, Finance (PC) Department dated 22.3.93, applicants seek refixation of their pay as Rs. 2000-3200 with effect from 1.6.1988.

2. Applicants plead that teachers who are in the same grade and are doing similar work were given the scale of pay of Rs. 2000-3200. Whereas the applicants are paid only Rs. 1640-2900. Learned Counsel for the applicants also draws our attention to an earlier decision of this Tribunal dated 8.5.96 in O.A. Nos. 1113 to 1133/95. There, this Tribunal pointed out that the Government extended the Selection/Special Grade pay scales to the applicants like Secondary Grade Assistant Teachers appointed in the High School and having more than 10 to 20 years of service and issued G.O. Ms. No. 216, Finance (Pay Cell) Department, dated 22.3.93 and the benefits awarded in G.O. Ms. No. 216, Finance (PC) Department dated 22.3.93 were extended to those applicants and pay was directed to be fixed in terms of the said G.O. While so, we find no reason for not conceding the claim of the applicants.

3. In the result, both the applications are allowed and the respondents are directed to refix the scale of pay of the applicants as Rs. 2000-3200 with effect from 1.6.1988 in terms of G.O. Ms. No. 216, Finance (PC) Department dated 22.3.93. All the pay arrears are to be disbursed within a period of three months from the date of receipt of a copy of this order."

Aggrieved over the said order of the Tribunal, the State filed W.P. No. 8747 of 2009, which was dismissed by the Division Bench, as extracted above.

19. The learned single Judge, in the order impugned, has held that the order in O.A. No. 8276 of 1997, which in turn, was confirmed by the Apex Court on 23.04.2010 in S.L.P.(CC) No. 2746 of 2010 is binding between the parties and the State is bound to implement the order and that the Government issued G.O.

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Ms. No. 258, School Education Department, dated 04.09.2010 implementing the order of the Tribunal in O.A. No. 8276 of 1997 after it lost before the Apex Court and also that the other orders passed by this Court following the judgment in W.P. No. 9747 of 2009 is binding between the parties to those orders. The learned single Judge further held that the same cannot be relied on by the petitioners to claim, as a matter of right, the Selection Grade/Special Grade pay of Primary School Headmaster, particularly, in view of the judgment of the Apex Court in The Director of School Education and Another Vs. A.N. Kandaswamy and Another, (1998) 80 FLR 931 : (1998) 7 JT 342 : (1999) 1 LLJ 442 : (1998) 5 SCALE 699 : (1998) 5 SCALE 690 : (1998) 8 SCC 26 : (1999) SCC(L&S) 75 : (1999) 1 UJ 4 and the judgment of the Division Bench of this Court in Director of School Education and Director of Adi Dravidar Welfare Vs. R.S. Srinivasan and The Registrar Tamil Nadu Administrative Tribunal .

20. When a policy has been taken by the Government to extend certain benefits, the same has to be extended to the eligible persons as per the scheme. Such extension of benefits may be by automatic process by the Government itself or at times in deserving cases, the beneficiaries also may approach this Court and seek for the relief.

21. While implementing the orders of the Court, perhaps for the applicants before the Court or those not before the Court, the benefits may be extended by the State itself. Till the decision is arrived at by the forum concerned, some of the left out beneficiaries may wait and approach the Court belatedly and in such cases the consequences will be the payment of arrears and the interest thereon, which is a matter for serious concern. In that event, waiving the benefits to the parties and the delay attributed to that effect may not be proper for any Government. Normally, the benefits of the scheme could be extended to the eligible persons. Therefore, we are of the considered opinion that mere laches on the part of the petitioners would not deprive the benefits as per the scheme. At the same time, we are also concerned with the State exchequer in payment of arrears.

22. In this context, we feel it appropriate to refer to a recent decision of the Supreme Court in State of Uttar Pradesh Vs. Arvind Kumar Srivastava, (2015) 1 ESC 89 : (2015) LabIC 482 : (2015) 1 SCC(L&S) 191 : (2014) 9 SCJ 439 , wherein, the Apex Court dealt with the issue as to the entitlement of benefit of judgment in rem with an intention to benefit all similarly situated persons irrespective of whether they had approached the court or not. It is held therein that when a particular set of employees is given relief by court, all other identically situated persons should be treated alike by extending the same benefit, since not doing so would amount to discrimination and be violative of Article 14 of the Constitution of India.

23. It is true, implementation of the Government Order in question to the teachers/individuals will cause enormous burden to the State exchequer and it is, certainly, a matter for concern. However, the views taken by the earlier Benches

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of this Court for extending the benefit to the employees therein are equally applicable to these cases in hand, as these individuals also are similarly placed to those in the earlier litigations. But, the only point to be considered in these cases is, the individuals have approached the Court belatedly, which delay, according to them, was due to the pendency of the decision in those matters. However, as regards the claim of arrears for the period taken by the individuals in these matters in making a belated approach, we are not inclined to pass any orders. Therefore, we leave it open to the State to take a decision as to the period of entitlement with regard to the said issue in accordance with law.

24. Subject to the above observation, following the Division Bench decision of this Court in W.P. No. 8747 of 2009, dated 14.07.2009, and also the subsequent decision of the Supreme Court in Special Leave Petition in C.C. No. 2746 of 2010, dated 23.04.2010, these Writ Appeals and Writ Petitions are allowed to the extent indicated. No costs. Consequently, the connected M.Ps. are closed."

4. In the light of the above observations of this Court in the said batch of cases, all the present Writ Petitions are also disposed of as they are similar in nature and as the decision rendered by this Court in the said batch of cases is covered in the present batch of cases, we allow the present batch of Writ Petitions on similar lines with similar observations and directions to the extent indicated therein. No costs. Consequently, connected pending Miscellaneous Petitions are closed.

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