

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.5355/2017 & WMP.Nos.5680 & 5681/2017

V.Gunasekaran

...Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by Secretary to the Government,
Finance (Pay Cell) Department,
Fort St. George, Chennai - 9
 2. The Secretary to the Government,
Government of Tamil Nadu,
School Education Department,
Fort. St. George, Chennai 600 009
 3. The Director of School Education,
College Road, Chennai 600 006
 4. The Regional Accounts Officer (Audit),
Coimbatore Region,
School Education Department,
Coimbatore
 5. The Chief Educational Officer,
Krishnagiri District, Krishnagiri
 6. The Headmaster,
Government Higher Secondary School,
Athipadi & Post,
Uthangarai Taluk,
Krishnagiri District - 635 307
- .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records of the 6th respondent in relation to the proceedings issued in Na.Ka.No.03/17 dated 18.01.2017 and issue a consequential direction to the respondents to pay the Selection Grade Scale of pay of Rs.15600-38100+5400 GP continuously to the petitioner with all benefits.

For Petitioner : M/s.R.Saseetharan

For Respondents : Mr.V.Aanandamoorthy, AGP

ORDER

By consent, the writ petition is taken up for final disposal. Mr.V.Aanandamoorthy, learned Additional Government Pleader accepts notice on behalf of the respondents.

2 The petitioner was initially appointed as a Single Part Time Vocational Instructor in Accountancy and Auditing at Government Boys Higher Secondary School, Singarapettai, Uthangarai Taluk, Krishnagiri District on 27.08.1984 and thereafter he was appointed as a Double Part Time Vocational Instructor on 01.09.1985 in the same subject in the very same school. Subsequently, the petitioner was appointed in the regular time scale of pay as Vocational Instructor on regular basis with effect from 01.09.2000 in the time scale of pay at Rs.1400-2600 which is the scale of pay for the B.T.Assistant by way of absorption, vide order dated 12.02.1991 passed by the 5th respondent. The services of the petitioner as Vocational Instructor have also been regularized on 01.04.1990 and vide proceedings dated 16.12.2008, he was conferred with the benefit of Selection Grade of scale of pay in the said post which is also the Selection grade pay for the Post of B.T.Assistant. The Petitioner would further aver that as per G.O Ms.No.6 School Education Department dated 04.01.2000, the Government had framed adhoc rules for the Post of Vocational Instructor and it is also stated that the General and Special rules applicable to the holding of the permanent post in the Tamilnadu School Education and Subordinate Services shall also apply to the Vocational Instructors like the petitioner.

3 It is the claim of the petitioner that since he was already granted Selection Grade Pay w.e.f. 01.04.2000, he is also entitled for Selection Grade in the revised pay scales w.e.f 01.01.2006 and accordingly, it was fixed at Rs.15,600 -39,100/- + GP 5,400/- and it is to be paid from 01.04.2013. The Petitioner, at present is working at P.G.Assistant at the Government Boys Higher Secondary School, Arcot taking Commerce subject.

4 The grievance expressed by the petitioner is that the Headmaster of the said School vide proceedings dated 18.01.2017, revised his Selection grade of pay from Rs.15,600 - 39,100 + GP Rs.5,400/- to Rs.9,300 - Rs.34,800 + GP.4,800/- and reduced his pay w.e.f. 01.04.2013 and directed him to

refund the alleged excess sum of Rs.69,776/- to the Government account and produce the challan and challenging the legality of the same, the petitioner came forward to file the present writ petition.

5 The Learned Counsel appearing for the petitioner would submit that since Impugned order is per se in violation of principles of natural justice, it deserves to be quashed and prays for appropriate orders.

6 Per Contra, Mr.V. Anandamoorthy, learned Additional Government Pleader appearing for the respondents would contend that the impugned order is merely a show cause notice for the reason that along with the impugned notice, audit objection has also been enclosed and it is open to the petitioner to respond the same and appropriate orders will be passed after taking into consideration, his explanation.

7 This Court has considered the rival submissions and also perused the materials placed before it.

8 A perusal of the impugned notice would disclose that along with the notice, the contents of the audit objection relating to the petitioner have also been enclosed.

9 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, is of the view that the impugned notice shall be treated as a show cause notice for which, the petitioner is at liberty to submit his explanation to the respondents 4 and 6 within a period of three weeks from the date of receipt of a copy of this order and upon receipt of the same, the respondents 4 and 6 are directed to consider the said explanation/response to be submitted by the petitioner on merits and in accordance with law and pass appropriate orders within a further period of eight weeks thereafter and till then, shall defer all further proceedings as to the re-fixation and recovery. The respondents 4 and 6 after passing orders, shall communicate the same to the petitioner and depending upon the result, the petitioner is at liberty to work out his remedy in accordance with law.

10 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. The Government of Tamil Nadu,
Rep. by Secretary to the Government,
Finance (Pay Cell) Department,
Fort St. George, Chennai - 9.
2. The Secretary to the Government,
Government of Tamil Nadu,
School Education Department,
Fort. St. George, Chennai 600 009
3. The Director of School Education,
College Road, Chennai 600 006
4. The Regional Accounts Officer (Audit),
Coimbatore Region,
School Education Department,
Coimbatore
5. The Chief Educational Officer,
Krishnagiri District, Krishnagiri
6. The Headmaster,
Government Higher Secondary School,
Athipadi & Post, Uthangarai Taluk,
Krishnagiri District - 635 307.

+1cc to Government Pleader SR.No.14728
+1 cc to Mr.R.aseetharan, Advocate SR.No.14138

W.P.No.5355 of 2017

SDR 15.03.2017