



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

W.P. (MD) Nos.2654, 2924 and 2663 of 2018 and

W.P. (MD) Nos.15980 and 17197 of 2014

and

M.P. (MD) Nos.2, 3, 3, 4 of 2014, M.P. (MD) No.1 of 2015

and

W.M.P. (MD) No.2432 of 2016 and W.M.P. (MD) No.2848 of 2018

W.P. (MD) No.2654 of 2018

L.Natarajan

... Petitioner

Vs.

1.The State of Tamil Nadu,
represented by its Principal Secretary,
Finance (CMPC) Department,
Fort St. George,
Chennai- 600 009.

2.The Director of School Education,
College Road,
Chennai-06.

3.The Joint Director (Vocational) of School Education,
College Road,
Chennai-06.

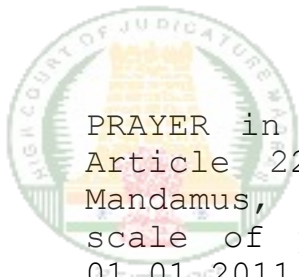
4.The Chief Educational Officer,
Ramanathapuram District,
Ramanathapuram. .

5.The District Educational Officer,
District Educational Office,
Paramakudi-623 707
Ramanathapuram District.

6.The Principal Accountant General (G&SSAR)
"LEKHA PARIKSHA BHAVAN"
No.361, Anna Salai,
Teynampet,
Chennai-600 018.

7.The Secretary,
A.V.Higher Secondary School,
Paramakudi-623 707,
Ramanathapuram District.

... Respondents



PRAYER in W.P.(MD)No.2654 of 2018 : This Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, for a direction directing the respondents to re-fix pay scale of petitioner by fixing the Grade Pay as Rs.5,400/- from 01.01.2011, within the time stipulated by this Court.

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For petitioner : Mr.T.Lajapathi Roy
For R1 to R5 : Mrs.S.Srimathy
Special Government Pleader
For R6 : Mr.P.Gunasekaran
Standing Counsel
For R7 : No appearance

W.P.(MD)Nos.15980 and 17197 of 2014

1.M.Rajaram
2.L.Kalyanasundaram
3.O.Arjunan
4.N.Nagarajan
5.T.Irudaya Raj ... Petitioners in W.P.(MD)No.15980 of 2014

1.P.Sankaranarayanan
2.K.Kathirvel
3.M.Kanirajan ... Petitioners in W.P.(MD)No.17197 of 2014

Vs.

1.The State of Tamil Nadu,
represented by its Principal Secretary,
Finance (CMPC) Department,
Fort St. George, Chennai- 600 009.

2.The Director of School Education,
College Road,
Chennai-06.

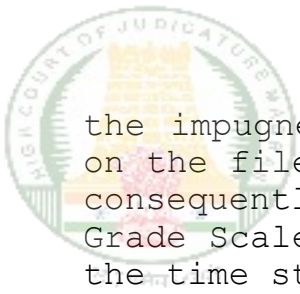
3.The Joint Director (Vocational) of School Education,
College Road,
Chennai-06.

4.The Chief Educational Officer,
Madurai District,
Madurai.

5.The Principal Accountant General (G&SSAR)
"LEKHA PARIKSHA BHAVAN"
No.361, Anna Salai,
Teynampet,
Chennai-600 018.

... Respondents in both the writ petitions

PRAYER in W.P.(MD)Nos.15980 and 17197 of 2014 : These Petitions are filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to



the impugned order in Letter No.66858/CMPC/2013-2, dated 22.08.2014 on the file of the respondent No.1 and quash the same as illegal and consequently directing the respondents to provide the Selection Grade Scale of Pay of Rs.15,600-39100+5400 to the petitioners within the time stipulated by this Court.

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For petitioner : Mr.T.Lajapathi Roy
For R1 to R4 : Mrs.S.Srimathy
Special Government Pleader
For R5 : Mr.P.Gunasekaran
Standing Counsel
(in both writ petitions)

W.P. (MD) Nos.2924 of 2018

P.Muthurakku

... Petitioner

Vs.

1.The State of Tamil Nadu,
represented by its Principal Secretary,
Finance (CMPC) Department,
Fort St. George,
Chennai- 600 009.

2.The Director of School Education,
College Road,
Chennai-06.

3.The Joint Director (Vocational) of School Education,
College Road,
Chennai-06.

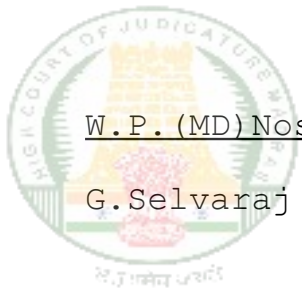
4.The Chief Educational Officer,
Ramanathapuram District,
Ramanathapuram.

5.The Principal Accountant General (G&SSAR)
"LEKHA PARIKSHA BHAVAN"
No.361, Anna Salai,
Teynampet, Chennai-600 018.

... Respondents

PRAYER in W.P.(MD)No.2924 of 2018 : This Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, for a direction directing the respondents to re-fix pay scale of petitioner by fixing the Grade Pay as Rs.5,400/- from 01.01.2011, within the time stipulated by this Court.

For petitioner : Mr.T.Lajapathi Roy
For R1 to R4 : Mrs.S.Srimathy
Special Government Pleader
For R5 : Mr.P.Gunasekaran
Standing Counsel



W.P. (MD) Nos. 2663 of 2018

G.Selvaraj

... Petitioner

Vs.

1.The Joint Director (Vocational) of School Education,
College Road,
Chennai-06.

2.The Chief Educational Officer,
Thoothukudi,
Thoothukudi District.

3.The Head Master,
SSN Government Higher Secondary School,
Komadikottai-628 653,
Tuticorin District.

4.The Principal Accountant General (G&SSA),
"LEKHA PARIKSHA BHAVAN"
No.361, Anna Salai,
Teynampet,
Chennai-600 018.

... Respondents

PRAYER in W.P.(MD)No.2663 of 2018 : This Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Ref.No.P10/3/11020275/ADK dated 28.12.2017 on the file of the respondent No.4 and quash the same as illegal and consequently for a direction directing the respondents to re-fix the pay scale by fixing the Grade Pay as Rs.5,400/- from 01.01.2011, within the time stipulated by this Court.

For petitioner : Mr.T.Lajapathi Roy
For R1 to R3 : Mrs.S.Srimathy
Special Government Pleader
For R4 : Mr.P.Gunasekaran
Standing Counsel

COMMON ORDER

In all these writ petitions, Vocational Instructors, some serving and some retired are the writ petitioners. The only issue to be decided in these writ petitions is the pay, payable to the Vocational Instructor in the selection grade vide G.O.Ms.No.263, Finance (Pay Cell) Department, dated 22.07.2013.



2. Heard learned counsel on either side.

3. The scale of pay of Vocational Instructor was revised to 9300-34800+GP4600. This is the scale of pay payable to ordinary Vocational Instructor. Those who have put in 10 years of service would move to Selection Grade. Their revised scale of pay was 15600-39100+GP5400. This is evident from the proceedings of the Principal Accountant General, Chennai, dated 14.07.2014.

4. In the said proceedings, it has been mentioned that such a revision of scale of pay was admissible with monetary benefit only from 01.04.2013. But, by subsequent letter dated 22.08.2014, the Government took a stand that the revised selection grade scale of pay for the Vocational Teachers would also be 9300-34800+GP 4800. This runs counter to the earlier G.O.Ms.263 dated 22.07.2013. The said subsequent Government letter is impugned in these writ petitions.

5. The subsequent Government letter suffers from two errors. Firstly, it equates Vocational Instructor with BT Assistant. Such an equation is not sustainable for more than one reason. BT Assistant has more than one promotional avenue. Vocational Instructor remains Vocational Instructor during their entire career. That apart in G.O.263 dated 22.07.2013, what was laid down was the revised scale of pay for ordinary Vocational Instructor. Ordinary Vocational Instructor would get a Grade Pay of Rs.4,600 but then a selection grade Vocational Instructor will get a Grade Pay of Rs.5,400/-.

6. A Government letter cannot prevail over a Government order issued under Article 162 of the Constitution of India. But then, as per the proceedings of the Principal Accountant General, Chennai, the monetary benefits can be given only from 01.04.2013. If they have been mistakenly given from the earlier date, the excess pay has to be recovered.

7. The learned counsel appearing on behalf of the writ petitioner placing reliance on the Hon'ble Supreme Court of India in 2015 (4) SCC 334 [State of Punjab v. Rafiq Masih] held that an order of recovery may not be made. Though the Hon'ble Supreme Court made it clear that only if it would cause hardship, recovery ought not be effected. In this case, some of the writ petitioners who have retired are very much getting pension. Therefore, the order of recovery will not cause hardship to them.

8. The Standing Counsel appearing on behalf of the Principal Accountant General, Chennai, submits that the objection was made in the year 2011. That apart, the proceedings dated 14.07.2014 of the Principal Accountant General, Chennai, are not under challenge.

9. Therefore, these writ petitions are partly allowed by holding that selection grade Vocational Instructor are entitled to



be paid selection grade scale of pay Rs.15600-39100+GP 5400 admissible with monetary benefits from 01.04.2013. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

WEB COPY

/True Copy/

Sub Assistant Registrar

To

- 1.The State of Tamil Nadu,
represented by its Principal Secretary,
Finance (CMPC) Department,
Fort St. George,
Chennai- 600 009.
- 2.The Director of School Education,
College Road,
Chennai-06.
- 3.The Joint Director (Vocational) of School Education,
College Road,
Chennai-06.
- 4.The Chief Educational Officer,
Ramanathapuram District,
Ramanathapuram.
- 5.The Chief Educational Officer,
Madurai District,
Madurai.
- 6.The Chief Educational Officer,
Thoothukudi,
Thoothukudi District.
- 7.The District Educational Officer,
District Educational Office,
Paramakudi-623 707
Ramanathapuram District.
- 8.The Head Master,
SSN Government Higher Secondary School,
Komadikottai-628 653,
Tuticorin District.



+5cc to M/S.T.Lajapathi Roy, Advocate SR.No. 56515 to 56517,
56615 & 56616

+1cc to M/S.P.Gunasekaran, Advocate SR.No. 56882

+1cc to Special Government Pleader, SR.No. 56866 & 56874

ORDER MADE IN
W.P. (MD) Nos. 2654, 2924 and 2663 of 2018
and
W.P. (MD) Nos. 15980 and 17197 of 2014
19.03.2018

pnn

JM/KKR/SAR 3/15.05.2018/7P/16C