



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.04.2018

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

W.P. (MD) No. 15733 of 2014

1. S. Rajaram
2. M. Gopalkrishnan
3. M. Rajkumar

... Petitioners

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary,
School Education Department,
Fort St. George,
Chennai.

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

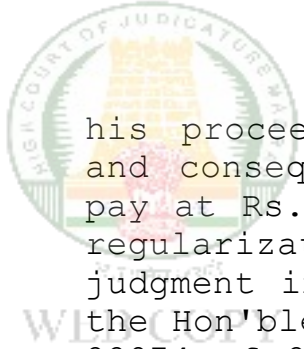
... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus calling for records relating to the impugned order dated 21.08.2014 passed by the 2nd Respondent in his proceedings in Na.ka.No.24069/VI/E3/2014 dated 21.08.2014 and quash the same and consequently direct the Respondents to re-fix the scale of pay at Rs.2000-3500, 6500-11100 from the date of the petitioners' regularization i.e., 01.10.2001 and 21.01.2009 in the light of the judgment in W.A.No. 1814 of 2011 dated 17.11.2011 as confirmed by the Hon'ble Apex Court by order dated 01.07.2013 in SLP No. (C.C.) 22874 of 2012 and the order passed in W.P. No. 5766 of 2008 dated 05.03.2012.

For Petitioners : Mr.B.Prahalad Ravi
for M/s.Hall Mark Associates
For Respondents : Mrs.Srimathy,
Special Government Pleader

ORDER

The prayer sought for in this writ petition is for a writ of Certiorarified Mandamus, calling for records relating to the impugned order, dated 21.08.2014, passed by the 2nd respondent in



his proceedings in Na.Ka.No.24069/VI/E3/2014 and quash the same and consequently, direct the respondents to re-fix the scale of pay at Rs.2000-3500, 6500-11100 from the date of the petitioners' regularization i.e., 01.10.2001 and 21.01.2009 in the light of the judgment in W.A.No. 1814 of 2011 dated 17.11.2011 as confirmed by the Hon'ble Apex Court by order dated 01.07.2013 in SLP No. (C.C.) 22874 of 2012 and the order passed in W.P.No. 5766 of 2008 dated 05.03.2012.

2. Heard Mr.B.Prahalad Ravi, learned Counsel, appearing for the petitioners and Mrs.Srimathy, learned Special Government Pleader, appearing for the respondents.

3. The learned Counsel appearing for the petitioners would submit that the issue raised in this writ petition is squarely covered by a decision of this Court made in **W.P.No.7242 of 2015 dated 14.09.2017**, in the matter of **PL.S.Palaniappan and others v. Government of Tamil Nadu, Rep. by its Principal Secretary, School Education Department**. In the said judgment, a learned single Judge, after having taken into account two judgments of this Court in **G.Vasimalai v. State of Tamil Nadu in W.P. (MD) No.5766 of 2008, dated 05.03.2012** and **W.A. (MD) No.1344 of 2013 dated 14.08.2014**, has allowed the writ petition.

4. In order to appreciate the same, the relevant portion of the said decision of the learned Judge is extracted hereunder:

"5.The similar issue was already adjudicated by this Court in the case of G.Vasimalai -Vs- State of Tamil Nadu in W.P (M.D) No.5766 of 2008. The learned Single Judge passed an order on 05.03.2012 is extracted here under:

"The issue involved in this case is as to whether the petitioner is entitled to get the salary in accordance with G.O.Ms.No.840 Finance (Pay) Commission dated 31.7.1990 when he is holding B.Sc (Agri) degree. The learned Judge has categorically found in the above referred order that when the petitioner is also doing the same work as that of the other Vocational Instructors, there is no justification to deny the scale of pay applicable to Vocational Instructors. The learned Judge has also categorically found that there cannot be two sets of Vocational Instructors drawing the different scale of pay and doing the similar work. The learned Judge has granted relief in the said Writ Petition to fix the scale of pay as Rs.2000-3500. Accordingly, in this case also the petitioner is entitled to relief of re-fixation of the scale of pay in terms of G.O.Ms.No.840 (Finance (Pay Commission) dated 31.7.1990. Therefore, the reasons



assigned in the impugned order are not justifiable and the same is unsustainable in view of the findings given by this Court in other Writ Petition in W.P.No.32121 of 2006 dated 5.1.2010. Accordingly, the impugned order is set aside and the Writ Petition is allowed and the respondent is directed to re-fix the scale of pay of the petitioner in terms of G.O.Ms.No.840 (Finance (Pay Commission) dated 31.7.1990 from the date of regularization namely, 16.10.1992 and pass orders and to pay monetary benefits within a period of eight weeks from the date of receipt of copy of this order. No costs."

6.The state preferred W.A.(MD) No.1344 of 2013 against the order cited supra and the Hon'ble Division Bench considered the issues elaborately and delivered a Judgment on 14.08.2014 and the relevant paragraphs are extracted here under:

"21.Keeping in mind the ratio laid down in the aforesaid decisions of the Honourable Apex Court as well as this Court, we have no hesitation to conclude that the impugned order herein passed by the learned Judge (K.Ravichandra Baabu,J.), in W.P.(MD) No.5766 of 2008, dated 05.03.2012, by following the order passed by the learned Judge (D.Hariparanthaman,J.) in W.P.No.32121 of 2006, dated 05.01.2010, is tenable.

22.Further, on a deep scrutiny of the materials available on record, we find that there is no need to refer the matter to a Larger Bench, since there are no conflict verdicts on the issue on hand and it cannot be said that the order passed by the Division Bench of this Court (EDRJ & RPSJ) is a non-speaking order, for the reason that the Division Bench of this Court had considered the issue and upheld the order passed by the learned Judge (D.Hariparanthaman,J.) in W.P.No.32121 of 2006. It is also not correct to state that the Honourable Supreme Court simply dismissed the Special Leave Petition without dealing with the correctness of the matters.

23.In such circumstances, we find that the order passed by the learned Judge (K.Ravichandra Baabu, J) in W.P.(MD) No.5766 of 2008, dated 05.03.2012, by following the earlier order passed by the learned Judge (D.Hariparanthaman, J), in W.P.No.32121 of 2006, dated 05.01.2010, which was ultimately confirmed by the Honourable Apex Court, is in accordance with law and no interference at the



hands of this Court is warranted. Accordingly, we find no cause or reason to differ with the same.

24. In fine, the writ appeal stands dismissed. Consequently, the connected miscellaneous petitions is dismissed. No costs."

7. The State preferred SLP C No.237 of 2015 before the Apex Court and the Hon'ble Supreme Court of India dismissed the Special Leave Petition on 07.09.2015. Thus, the matter reached finality and the learned counsel for the writ petitioners further brought to the notice of this Court that the order passed in the above cases were implemented by the respondent State by issuing G.O.(3D) No.91, School Education Department dated 26.05.2016. Thus, this Court is of the opinion that the writ petitioners in this writ petition is also entitled to get the same benefit of equal time scale of pay in accordance with the G.O.Ms.No.840, Finance (Pay Commission) dated 31.07.1990.

8. Accordingly, the orders impugned in this writ petition stands quashed and the writ petition stands allowed in terms of the orders passed by this Court in W.P. (MD) No.5766 of 2008 dated 05.03.2012 and the W.A. (MD) No.1344 of 2013 dated 14.08.2014. The respondent is directed to pass appropriate orders as early as possible. However, there is no order as to costs."

5. The learned Counsel for the petitioners would submit that the present issue raised in this writ petition is also one and the same and therefore, the same is covered by the decision referred above.

6. The learned Special Government Pleader appearing for the respondents would fairly submit that the issue raised in this writ petition, though covered under the said decision, but, she would raise an objection that in the impugned order since the objection was raised by the respondents that the petitioners would be entitled to get the salary fixed for Vocational Teachers, however, the salary they seek, since are equal to the PG Teachers the same can be turned down, appears to be genuine and therefore, that aspect the impugned order may be justifiable.

7. I have considered the said submission and the fact that the said issue has been supported by a row of decisions as referred hereinabove including a Division Bench order and the same has been followed in a number of cases, including the one where the relevant portion has been extracted hereinabove.

8. The issue raised in this writ petition is covered and the impugned issue would no more be *res integra*, therefore, this Court is of the view that the impugned order is liable to be interfered



with and accordingly, the same is quashed.

9. In the result, the impugned order is quashed and the writ petition is allowed in terms of the order passed by this Court in W.P.(MD)No.5766 of 2008 dated 05.03.2012 and W.A.(MD)No.1344 of 2013 dated 14.08.2014. The directions shall be undertaken by the respondents within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
School Education Department,
Fort St. George,
Chennai.
2. The Director of School Education,
College Road,
Chennai.

+ 1 CC TO Mr.B.PRAHALAD RAVI, ADVOCATE IN SR No. 61794
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 61612

GK
TE/SV-MMS/SAR-1 : 27/04/2018 : 5P/5C

W.P. (MD)No.15733 of 2014
16.04.2018