

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2019

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.21617 of 2014

1. S.Mahesh Kumar
2. V.G.Ramakrishnan ... Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary to Government,
Finance Department,
Fort St., George, Chennai 600 009.
2. The State of Tamil Nadu
Rep. by its Secretary to Government,
School Education Department,
Fort St. George, Chennai 600 009.
3. The Director of School Education,
DPI Compound, College Road,
Chennai 600 006.
4. The Joint Director (Vocational),
Directorate of School Education,
DPI Compound, College Road,
Chennai 600 006. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the Respondents to refix the scale of pay of the petitioners who are working as Vocational Instructors at Rs.2000-3500 as per G.O.Ms.No.840, dated 31.07.1990 with effect from 6.11.1996 being the date of regularization of their service under G.O.Ms.No.790 dated 6.11.1996 on par with the scale of pay sanctioned to Mr.Narayanasami under G.O.Ms.No.327, dated 18.11.2013 and Vocational Instructors who were in service at the time plus 2 system was introduced in the Schools in the State of Tamil Nadu.

For Petitioner : Ms.C.Uma
For Respondents 1 to 4 : Mr.K.Karthikeyan, G.A.

O R D E R

Both the counsel appearing for the parties represented that issue involved in this writ petition covered by the order passed by this Court, dated 26.2.2019 in W.P.No.33959 of 2014. The relevant portion of the order is reproduced as follows:

'3. The issue involved in this Writ Petition is no longer res integra. Initially, similarly placed persons have approached Madurai Bench of this Court by filing a Writ Petition in W.P.(MD) No.5766 of 2008 and this Court, by an order dated 05.03.2012, allowed the Writ Petition. Against which, the Government preferred an appeal in W.A. (MD) No.1344 of 2013 and this Court, by an order dated 14.08.2014 dismissed the Writ Appeal. Thereafter, the State preferred SLP.C.No.235 of 2015 before the Hon'ble Apex Court and the Hon'ble Apex Court, dismissed the Special Leave Petition on 07.09.2015. Further, by referring the above said fact, this Court, by an order dated 14.09.2017 in W.P.Nos.9675 & 9676 of 2015, allowed the similar Writ Petitions. The relevant paragraphs would run thus:-

"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.'

2. The order passed by this Court, dated 5.3.2012 in W.P.(MD) No.5766 of 2008, attained finality before the Hon'ble Supreme Court in the SLP preferred by the State in SLP No.235 of 2015 by dismissal of the SLP. Subsequent to the dismissal of the aforesaid SLP before the Hon'ble Supreme Court, this Court allowed the W.P.No.9675 and 9676 of 2015. The issue involved in the present writ petition is also covered by the aforesaid judgment.

3. In the light of the judgment cited supra, the writ petition is disposed of with liberty to the petitioner to make fresh representation to the fourth respondent and the same shall be considered by the fourth respondent as expeditiously as possible. No costs.

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Sd/-

Assistant Registrar(Insp.cell)

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Sub Assistant Registrar

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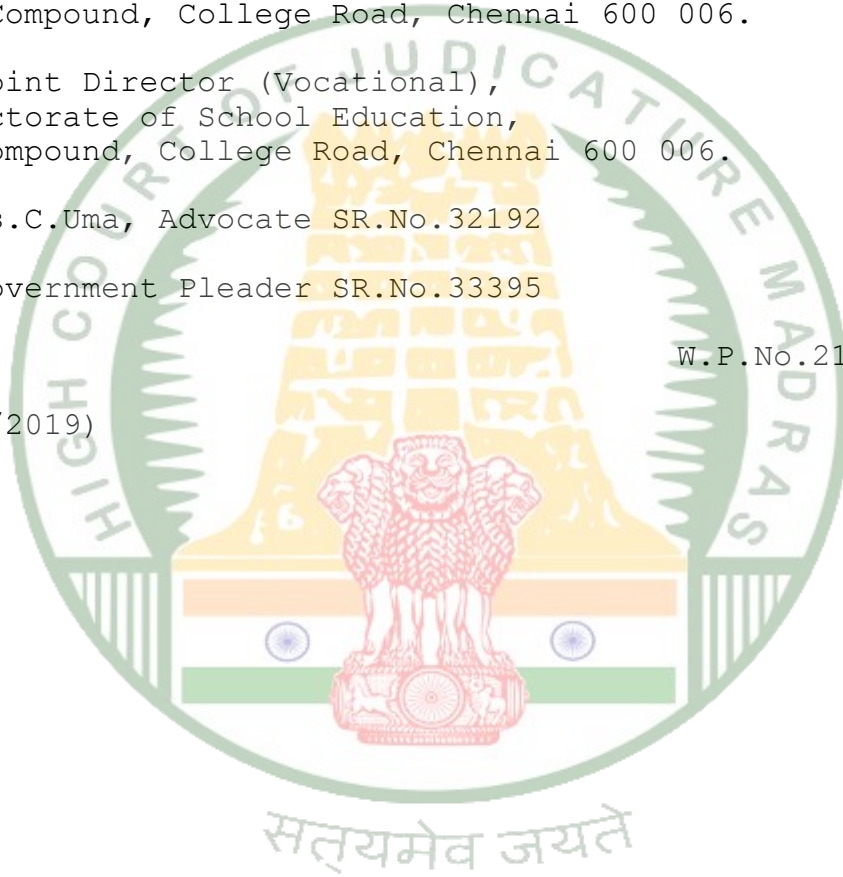
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+1cc to Ms.C.Uma, Advocate SR.No.32192

+1cc to Government Pleader SR.No.33395

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LN(CO)
GMY(03/05/2019)



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