

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.09.2019

CORAM

THE HON'BLE Mr.JUSTICE M.DHANDAPANI

W.P.No.28335 of 2019

and

WMP.No.28010 of 2019

M.Sothi

... Petitioner

Versus

- 1.The Government of Tamil Nadu
rep. by its Secretary,
Finance (Pay Cell) Department,
Fort St. George, Chennai-600009.
- 2.The Director of School Education,
Chennai-600 006.
- 3.The Accountant General,
Office of the Accountant General (A&E)
Chennai.
- 4.The Head Master,
Government Higher Secondary School (Boys)
Udayarpalayam, Ariyalur District. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus or any other appropriate writ, order of direction, to call for the records, relating to the proceeding of the third respondent dated 15.04.2019 in No.AG(A&E) PEN/P09/10922503/2/R0918673 and consequential order dated 17.09.2019 in Na.Ka.No.194 of 2019, passed by fourth respondent, quash the same and further direction, directing the 3rd and 4th respondents to fix the pay and pension by applying Rule 4(i) & (iii) of the Tamil Nadu Revised Scale of Pay Rules 2009.

For Petitioner : Mr.R.Saravanakumar

For Respondent 1 : Mrs.R.Janaki.

For Respondents 2- to 4 : Mrs.P.Kavitha
Government Advocate.

O R D E R

This Writ Petition has been filed by the petitioner praying for issuance of Certiorarified Mandamus to call for the records relating to the proceeding of the third respondent dated 15.04.2019 in No.AG(A&E) PEN/P09/10922503/2/R0918673, passed by fourth respondent, quash the same and and further direction, directing the third and fourth respondents to fix the pay and pension by applying Rule 4(i) & (iii) of the Tamil Nadu Revised Scale of Pay Rules 2009.

2. The case of the petitioner is that he was appointed as Vocational Teacher on 20.07.1984 and he was brought on time scale of pay on 01.04.1990. After completion of ten years of service he became eligible for grant of selection grade scale of pay. Vide G.O.No.234 dated 01.06.2009, pay scales of the employees have been revised by virtue of implementation of the 7th pay commission. Consequently, the Government issued Tamil Nadu Revised Scales of Pay Rules 2009. According to the petitioner, the Government issued additional fitment tables for certain categories of employees. Fitment table 15 is applicable to the petitioner and accordingly his pay was also revised. While that being so, the third respondent issued impugned proceedings dated 15.04.2019, directing the petitioner to repay a sum of Rs.3,39,119/- on the ground that as fixation of pay was wrongly done and also pension is to be refixed. Aggrieved by the same, the petitioner has come forward with the present Writ Petition.

3. The learned counsel for the petitioner would submit that the impugned proceedings cannot be sustained on the ground that the petitioner was not issued any show cause notice. He would point that without following rules 4(i) & 4(iii) of Tamil Nadu Revised Scales of Pay Rules 2009 which specifically provides the ground of increment, the third respondent issued the impugned proceedings. The learned counsel also pointed out that based on the impugned order if the scale of pay is fixed then the petitioner and the teachers who are juniors to him will get the same pay which is improper and it is settled that junior cannot draw more pay than the senior. Therefore, learned counsel would urge this Court to set aside the impugned order.

4. The learned counsel appearing for the respondents would submit that in case this Court set asides the impugned order, the petitioner will be given notice and after affording an opportunity to him, necessary orders will be issued.

5. Considering the facts and circumstances and the submissions made by the learned counsel for the petitioner, this Court feels it appropriate to set aside the impugned order and remit the matter to the respondents for fresh consideration after issuing notice to the petitioner. Accordingly, the impugned order dated 15.04.2019 passed by the third respondent as well as consequential order dated 17.09.2019 issued by the fourth respondent are hereby set aside and the matter is remitted to the respondents for fresh consideration. The respondents are directed to issue show cause notice to the petitioner within a period of one week from the date of receipt of a copy of this order and the petitioner shall submit his explanation within a period of two weeks thereafter. On receipt of the explanation, the respondents are directed to pass appropriate orders within four weeks thereafter.

6. With the above direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary,
Government of Tamil Nadu
Finance (Pay Cell) Department,
Fort St. George, Chennai-600009.
- 2.The Director of School Education,
Chennai-600 006.
- 3.The Accountant General,
Office of the Accountant General(A&E), Chennai.
- 4.The Head Master,
Government Higher Secondary School (Boys)
Udayarpalayam, Ariyalur District.

+1cc to Mr.E.Veda Bagath Singh, Advocate Sr.83318
+1cc to the Government Pleader Sr.83176, 83648

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srg 19/11/2019