

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.30253 of 2019 and
W.M.P.No.30229 of 2019

K.Kolanjiyappan

... Petitioner

Vs.

- 1.The Government of Tamil Nadu
rep. by its Secretary,
Finance (Pay Cell) Department,
Fort St.George, Chennai - 600 009
- 2.The Director of School Education,
Chennai - 600 006
- 3.The Accountant General (A&E),
Office of the Accountant General (A&E),
Chennai
- 4.The Head Master,
Government Higher Secondary School,
T.Palur-612 904

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records, relating to the proceeding of the third respondent dated 01.05.2019 in No.AG(A&E)/PEN/P09/10922670/4/R0922670 and consequential order dated 19.07.2019 in Na.Ka.No.155 of 2019, passed by the fourth respondent, quash the same 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.

For Petitioner : Mr.R.Saravanakumar

For Respondents : Mr.C.Munusamy,
Special Government Pleader (Edn.)

O R D E R

By consent of both sides, the writ petition is taken up for final disposal at the admission stage itself.

2.This writ petition has been filed seeking to quash the proceedings of the 3rd respondent dated 01.05.2019 in No.AG (A&E)/PEN/P09/ 10922760/4/ R0922670 and consequential order

dated 19.07.2019 in Na.Ka.No.155 of 2019 passed by the 4th respondent, and consequently directing the respondents / R3 and R4 to fix the pay and pension by applying Rule 4(i) & (iii) of the Tamil Nadu Revised Scale of Pay Rules 2009.

3.The petitioner was appointed as a Vocational Teacher in the year 1988. The petitioner was brought on time scale of pay on 16.10.1992 and became eligible for selection grade scale of pay. The 1st respondent implemented the 7th pay commission, vide G.O.No.234 dated 01.06.2009 and the revised pay scales was implemented w.e.f. 01.01.2006. Consequent to the implementation of 7th pay commission, the Government issued Tamil Nadu Revised Scales of Pay Rules 2009. The Government also issued additional fitment tables for some categories of employees, whose pay scales have been revised, vide its letter dated 15.09.2010 with the grant of grade pay of Rs.5400 vide G.O.No.306 dated 12.09.2018 to the vocational teacher / petitioner. The fitment table 15 (with existing scale i.e. Rs.6500-299-10500 as on 01.01.2006 and revised pay band + grade pay i.e. 15600+3900+5400) is applicable to the petitioner. However, without following Rule 4(i) & (iii), which provides for grant increment, the 3rd respondent has stated that the minimum amount of Rs.15600+5400 would only be permitted to the petitioner, the 3rd respondent issued an impugned proceedings dated 01.05.2019 in No.AG(A&E)/PEN/P09/10922760/4/ R0922670 and consequential order dated 19.07.2019 in Na.Ka.No.155 of 2019 passed by the 4th respondent. Hence, this petition.

4.The learned counsel for the petitioner would submit that the fitment table 15 (with existing scale i.e. Rs.6500-299-10500 as on 01.01.2006 and revised pay band + grade pay i.e. 15600+3900+5400) is applicable to the petitioner. However, without following Rule 4(i) & (iii), which provides for grant increment, the 3rd respondent has stated that the minimum amount of Rs.15600+5400 would only be permitted to the petitioner and issued an impugned proceedings 01.05.2019 in No.AG(A&E)/PEN/P09/ 10922760/4/ R0922670 and consequential order dated 19.07.2019 in Na.Ka.No.155 of 2019 passed by the 4th respondent, which is non application of mind. Hence, he seeks to set aside the impugned proceedings dated 01.05.2019 in No.AG(A&E)/PEN/P09/ 10922760/4/ R0922670 and consequential order dated 19.07.2019 in Na.Ka.No.155 of 2019 passed by the 4th respondent and remand the matter back to the 2nd respondent to fix the pay and pension by applying Rule 4(i) & (iii) of the Tamil Nadu Revised Scale of Pay Rules 2009 for fresh consideration and to pass orders on merits.

5.The learned counsel for the respondents conceded to the request made by the learned counsel for the petitioner to remand the matter back to authorities concerned.

6.In view of the limited prayer sought for by the petitioner, this Court is inclined to set aside the proceedings of the 3rd respondent dated 01.05.2019 in No.AG(A&E)/PEN/P09/ 10922760/4/ R0922670 and consequential order dated 19.07.2019 in Na.Ka.No.155 of 2019 passed by the 4th respondent and remand the matter back to the authorities concern.

7.Accordingly, the proceeding of the 3rd respondent 01.05.2019 in No.AG(A&E)/PEN/P09/10922670/4/R0922670 and consequential order dated 19.07.2019 in Na.Ka.No.155 of 2019 passed by the 4th respondent is set aside and the matter is remanded back to the authorities concern. The 3rd and 4th respondents are hereby directed to re-appreciate the fixation of the pay and pension by applying Rule 4(i) and (iii) of the Tamil Nadu Revised Scale of Pay Rules 2009 afresh on merits and in accordance with law.

8.With the above observations, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary,
The Government of Tamil Nadu
Finance (Pay Cell) Department,
Fort St.George, Chennai - 600 009
- 2.The Director of School Education,
Chennai - 600 006
- 3.The Accountant General (A&E),
Office of the Accountant General (A&E),
Chennai
- 4.The Head Master,
Government Higher Secondary School,
T.Palur-612 904.

+1cc to Mr.E.Veda Bagath Singh, Advocate SR.89091
+1cc to the Government Pleader SR.89676

W.P.No.30253 of 2019

PVS (CO)
CB(09/12/2019)