



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05..03..2020
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THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition Nos.12787 and 12788 of 2013
and
M.P.Nos.2 of 2013

V.Sundararajan

... Petitioner in W.P.No.12787 of 2013

R.Jayaraman

... Petitioner in W.P.No.12788 of 2013

-Versus-

1.The Government of Tamil Nadu,
Rep. by The Secretary to the Government,
Finance (Pay Cell) Department,
Fort St. George, Chennai 600 0009.

2.The Secretary to the Government,
Government of Tamil Nadu,
School Education Department,
Fort St. George,
Chennai 600 009.

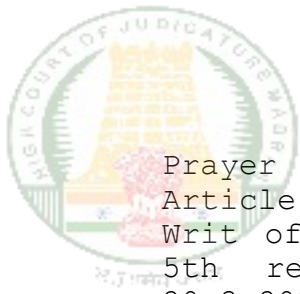
3.The Director of School Education,
College Road,
Chennai 600 006.

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

5.The District Educational Officer,
Villupuram District,
Villupuram.

6.The Headmaster,
Government Boys Higher Secondary School,
Thiagathurugam,
Kallakurichi Taluk,
Villupuram District.

... Respondents in both WPs



Prayer in W.P.No.12787 of 2013: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 5th respondent in proceedings Na.Ka.No.88886/A1/2012 dated 20.3.2013 and of the 6th respondent in Na.Ka.No.445/ 12-13 dated 28.3.2013 and quash the same and to issue a consequential direction to the respondents to restore the pay of petitioner as on 01.01.2006 in the pay band of Rs.15600-39100 + Grade pay 5400 as fixed originally in Na. Ka. No.229/11-12 dated 14.11.2011 of the 5th respondent with all benefits.

Prayer in W.P.No.12788 of 2013: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 5th respondent in proceedings in Na.Ka.No.88886/A1/2012 dated 20.3.2013 and of the 6th respondent in Na.Ka.No.445/ 12-13 dated 28.3.2013 and to quash the same and issue a consequential direction to the respondents to restore the pay of petitioner as on 01.01.2006 in the pay band of Rs.15600-39100 + Grade pay 5400 as fixed originally in Na. Ka. NO.229/11-12 dated 14.11.2011 of the 5th respondent with all benefits.

For Petitioner(s)	: Mr.R.Saseetharan	for
	petitioner in both WPs	
For Respondent(s)	: Mr.S.Thangavel, Spl. G.P.	
	for R1 in both WPs	
	Mr.A.Rajaperumal for AGP for	
	RR2 to R6 in both WPs	

COMMON ORDER

The writ petitions challenge the order of recovery passed by the 6th respondent.

2. The petitioners are working as Vocational Instructors in the 6th respondent school. They are getting scale of pay on par with B.T. Assistants in the Government Schools. While they were working in the ordinary pay scale, they were paid on par with B.T. Assistant on awarding selection grade based on a Government Letter No.63305/Pay Cell/2010-1, Finance (PC) Department, dated 08.11.2010 and the 6th respondent had fixed their scale of pay at Rs.15600 - 39100 + 5400. This was, however, objected by the Audit Office stating that the petitioners are not entitled for selection grade pay at Rs.15600 - 39100 + 5400. Based on such objection, now, the orders impugned in the writ petitions have been passed by the 6th respondent for recovery of the excess amount paid to the petitioners. Challenging the same, the petitioners are before this court with the instant writ petitions.



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3. I have heard the learned counsel for the petitioner in both writ petitions and the learned Special Government for the 1st respondent and the learned Additional Government Pleader for respondents 2 to 6 and also perused the records carefully.

4. The learned counsel appearing for the petitioner would submit that the scale of pay for the post of Vocational Instructor was fixed by the 6th respondent based on the Government Letter No.63305/Pay Cell/2010-1, Finance (PC) Department, dated 08.11.2010. Subsequent to the above, on considering the fact that the Vocational Instructors have got no further avenue of promotion, the Government had fixed the scale of pay at Rs.15600 - 39100 + 5400 in G.O.Ms.306 Finance (CMPC) Department, dated 12.09.2018. However, the Grade pay was fixed for no fault of the petitioners.

5. The learned counsel for the petitioners would further submit that by way of orders impugned in the writ petitions recovery was ordered as against four Vocational Instructors including the petitioners herein and of whom, one N.Rajendran and N.Srinivasan had already approached this court challenging the order for recovery of excess pay in W.P.No.11999 and 12000 of 2013 respectively and and this court by order dated 25.10.2019 allowed the writ petitions and thereby set aside the order for recovery.

6. The relevant portion of the order of this court made in W.P.Nos.11999 and 12000 of 2013 dated 25.10.2019 reads as follows:-

"4. In view of the above, the order for recovering the excess amount from the pay of the petitioner from 01.01.2011 to 31.03.2013 stands set aside. The writ petitions are disposed of on the above mentioned terms."

7. Considering the fact that scale of pay for the Vocational Instructors was fixed at Rs.15600 - 39100 with grade pay of Rs.5400/- for no fault of the petitioners, but, however, the Government had subsequently recognized the anomaly and re fixed the grade pay and also on considering the fact that when the order for recovery was challenged by the similarly placed persons, this court by order dated 25.10.2019 set aside the order of recovery of excess amount paid, this court is inclined to set aside the order of recovery in respect of the petitioners also.

In the result, both writ petitions are allowed and the orders impugned in the writ petitions directing the recovery of the excess amount from the pay of the petitioners from 01.01.2011 to 31.03.2013 are set aside. Amounts, if any, already



recovered from the petitioners are directed to be refunded to them within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected MPs are closed.

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Sd/-
Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

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To

- 1.The Secretary to the Government, Finance (Pay Cell) Department,
Fort St. George, Chennai 600 0009.
- 2.The Secretary to the Government, Government of Tamil Nadu,
School Education Department, Fort St. George, Chennai 600 009.
- 3.The Director of School Education, College Road, Chennai 600 006.
- 4.The Chief Educational Officer, Villupuram District, Villupuram.
- 5.The District Educational Officer, Villupuram District,
Villupuram.
- 6.The Headmaster, Government Boys Higher Secondary School,
Thiagathurugam, Kallakurichi Taluk, Villupuram District.

+1cc to Government Pleader SR.No.20239

Writ Petition
Nos.12787 & 12788 of 2013

RJI (CO)
GMY (13/07/2020)