

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 16.12.2020

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. Nos.4403 & 4404 of 2014

A.Nallappan

.. Petitioner in both WPs

- Vs -

1. The State of Tamil Nadu,
Rep.by Secretary to Government
Department of Finance,
Fort.St.George, Chennai - 600 009.
 2. The State of Tamil Nadu,
Rep.by Secretary to Government
Department of Education,
Fort St.George, Chennai - 600 009.
 3. The Director of School Education
DPI Complex, College Road,
Chennai 600 006.
 4. Joint Director School Education (Vocational)
Office of Director of School Education,
DPI Complex, College Road,
Chennai - 600 006.
 5. The Chief Educational Officer
Chief Educational Officer,
Ariyalur, Ariyalur District - 621 704.
 6. The Principal Accountant General,
Audit Section,
No.361, Anna Salai, Teynampet,
Chennai - 600 018.
 7. The Headmaster,
Government Higher Secondary School,
Ariyalur, Ariyalur District - 621 704.
- .. Respondents in both WPs

Prayer in WP.No.4403 of 2014: Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorarified Mandamus calling for the records of the

Principal Accountant General, the 6th Respondent herein having Ref.No.17/III/21706848/Rev-12-13/ADK dated 11.02.2013 and the consequential order of the Head Master 7th Respondent herein having Ref.Na.Ka.No.25/2012 dated 15.07.2013 and quash the same as arbitrary and violative of Article 14 in so far as the orders seek the recover excess salary from the petitioner and consequently direct the respondents to calculate the salary and sanction pension to the petitioner on the basis of Grade pay of Rs.5400 from the date of retirement.

Prayer in WP.No.4404 of 2014: Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Declaration declaring G.O.Ms.No.263, Finance (Pay Cell) Department 1st respondent herein dated 22.07.2013 as arbitrary and violative of article 14 of the Constitution in so far as it gives monetary benefit for Vocational Instructors in the revised scale of pay w.e.f.01.04.213 and not w.e.f 01.01.2011 and consequently direct the respondents to give revision of scale of pay for the vocational Instructors including the Petitioner with notional effect from 01.01.2006 for the purpose of fixation of pay in the revised scale of pay with monetary benefit from 01.01.2011 for grade pay and fix the salary and consequential pension on the said basis for the petitioner.

For Petitioner : M/s.Uma in both WPs
For R1 : Mr. S.Thangavel, Spl. GP in both WPs
For R2,R3,R4, R5 & R7: Mr. S.Sureshkumar, GA in both WPs
For R6 : Mr.Vijayashankar in both WPs

COMMON ORDER

The Petitioner has come up with this Writ Petition seeking to quash the impugned order dated 15.07.2013 passed by the seventh respondent and to direct the respondents to grant the revised pay scale to the petitioners with all monetary and consequential benefits.

2. Today, when these matters are taken up for consideration, learned counsel appearing on either side brought to the notice of this Court that the issue raised in the present cases are covered by the order passed by the learned single Judge of this Court in the case of V.Krishnan - Vs - The Government of T.N. & Ors. (W.P. No.2950/2014, etc. - Dated 3.2.2020) and, therefore, pray that similar order may be passed in the present petitions as well.

3. This Court heard the learned counsel on either side and perused the materials available on record as also the decision relied on.

4. G.O. Ms No.263, Finance (Pay Cell) Department fell for consideration before this Court in V.Krishnan's case (supra) relating to the date from which the monetary benefits ought to

be given. The said Government Order has given the monetary benefits with effect from 1.4.13, while it is the case of the petitioner therein that the monetary benefit ought to have been given from 1.1.2011. Learned single Judge of this Court, after hearing either side and also analysing the various Government Orders in issue on the subject, held as under :-

"6. The Petitioners have challenged the impugned GO.Ms.No.263, dated 22.7.2013 before the Madurai Bench of this Court, in WP (MD) Nos.2654, 2924, 2663 of 2018 and 15980, 17197 of 2014, wherein, by order dated, 19.03.2018, directions were issued to allow the Selection Grade Scale of Pay of Vocational Instructors, with monetary benefits with effect from 01.04.2013, revising the GO.Ms.No.263, dated 22.07.2013. Following the said order dated, 19.03.2018, the Government had issued GO.Ms.No.306, Finance (CMRC) department, dated 12.09.2018, directing to pay the arrears of pay and allowances to the individuals with effect from 01.04.2013.

7. The relevant portion of GO.Ms.No.306, Finance (CMRC) department, dated 12.09.2018 reads as under:-

"8. The above orders shall be applicable to all the Vocational 8. Instructors, who were awarded Selection Grade prior to 01.01.2006 and those awarded Selection Grade between 01.01.2006 and 31.05.2009 and opted for the revised scales of pay on that date irrespective of the fact as to whether they filed separate Writ Petitions or not.

9. The arrears of pay and allowances shall be drawn and paid to the individuals with effect from 01.04.2013 as per the orders in force."

8. It is seen from the GO.Ms.No.306, Finance (CMRC) department, dated 12.09.2018 that the grievance of the Petitioners has been met out positively by the Respondent. Therefore, impugned GO.Ms.No.263 Finance (Pay Cell) Department, dated 22.7.2013 and the consequential recovery proceedings cannot be given effect to. In such view of the matter, no further adjudication is required in all these Writ Petitions. The submissions of the learned Government Advocate for the State and the GO.Ms.No.306, Finance (CMRC) department, dated 12.09.2018 are recorded.

9. With the above observations, these Writ Petitions are disposed of. No costs. Consequently, the connected MPs are closed."

5. The petitioner in the present cases are identically placed as the petitioner in the above writ petitions. Therefore, the order passed above stands squarely attracted to the case of the petitioner herein. In such view of the matter, this Court is of the considered opinion that these writ petitions ought to be disposed of in terms of the order passed in V.Krishnan's case (supra).

6. Accordingly, these writ petitions are disposed of in the light of the order passed in V.Krishnan's case (supra) and, accordingly, it is made clear that G.O. Ms. No.263, Finance (Pay Cell) Department dated 22.7.13 and the consequential recovery proceedings cannot be given effect to. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

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The State of Tamil Nadu,
Department of Finance,
Fort.St.George, Chennai - 600 009.
2. The Secretary to Government,
The State of Tamil Nadu,
Department of Education,
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A.SK(02.02.2021) .