BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD).Nos.5702, 5703, 5704, 5705, 5706 and 5707 of 2012, 4833, 4834, 4835, 4836, 4837 and 4838 of 2012
and
M.P.(MD)Nos.1, 1, 1, 1, 1, 1, 1, 2, 1, 2, 1, 2, 1, 2, 1, 2, 1 and 2 of 2012

A.Joseph Gregori	: Petitioner in W.P.(MD)No.5702 of 2012
R.Maravarman	: Petitioner in W.P.(MD)No.5703 of 2012
S.Francis Muthuraj	: Petitioner in W.P.(MD)No.5704 of 2012
M.Antony Samy	: Petitioner in W.P.(MD)No.5705 of 2012
R.Palvannan	: Petitioner in W.P.(MD)No.5706 of 2012
S.Arul Selvan	: Petitioner in W.P.(MD)No.5707 of 2012
S.Arul Selvan	: Petitioner in W.P.(MD)No.4833 of 2012
R.Maravarman	: Petitioner in W.P.(MD)No.4834 of 2012
S.Francis Muthuraj	: Petitioner in W.P.(MD)No.4835 of 2012
A.Joseph Gregori	: Petitioner in W.P.(MD)No.4836 of 2012
M.Antony Samy	: Petitioner in W.P.(MD)No.4837 of 2012
R.Palvannan	: Petitioner in W.P.(MD)No.4838 of 2012

-Vs-

1. The District Elementary Educational Officer,
   Tirunelveli District, Tirunelveli.

2. The Assistant Elementary Educational Officer,
   Keelapavoor, Keelapavoor Range,
   Tenkasi Taluk,
   Tirunelveli District. : Respondents in all WPs.

Prayer W.P(MD)Nos.5702, 5703, 5704, 5705, 5706 and 5707 of 2012 :

Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to impugned order passed by the second respondent dated 31.03.2012 in Na.Ka.No.326/A3/2012 and quash the same.

Prayer in WP(MD)Nos.4833 4834, 4835 and 4837/2012:

Writ Petitions filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS, directing the respondents to continue to pay salary to Petitioners in accordance with revised scale of pay along with increments following the order of 2nd respondent dated 18.05.2011 without reducing the same with all consequential benefits and forbear the respondents from calculating payable salary by fixing a different basic pay or Dearness Allowance and making any difference under other heads.

Prayer in WP(MD)Nos. 4836 and 4838/2012 :

Writ Petitions filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS, directing the respondents to continue to pay salary to Petitioners in accordance with revised scale of pay along with increments following the order of 2nd respondent dated 20.04.2011 without reducing the same with all consequential benefits and forbear the respondents from calculating payable salary by fixing a different basic pay or Dearness Allowance and making any difference under other heads.

For Petitioner : Mr.N.Dilipkumar
(in all petitions)
For Respondents : Mr.J.Gunaseelanmuthiah
(in all petitions Additional Government Pleader

COMMON ORDER

The order of cancellation of re-fixation of pay issued by the second respondent, in proceedings, dated 31.03.2012, is under challenge in these writ petitions.

2.The facts are common in all these writ petitions. The petitioners are either working as Primary School Headmasters or Middle School Headmasters. All these writ petitioners joined in the Department of School Education in the cadre of Secondary Grade Teachers. The scale of pay for Primary School Headmasters in ordinary grade scale of pay is Rs.5300-150-8300 and for the selection grade is Rs.6500-200-10500. The scale of pay for the special grade is Rs.8000-275-13500. The Government issued G.O.Ms.No.358, Finance (Pay Cell) Department, dated 20.08.2008 appointing an Official Committee to scrutinise and make necessary recommendations for revision of scale of pay and allowances to the Government employees and Teachers, based on the decision of the Government of India with reference to the Sixth Pay Commission recommendations. Accordingly, G.O.Ms.234, Finance (PC) Department, dated 01.06.2009 was passed granting revision of scale of pay with effect from 01.01.2006 and the monetary benefits from 01.01.2007. As per the revised scale of pay, the pay for Primary School

Headmasters in the ordinary grade scale of pay is Rs.9300-34800+grade pay Rs.4300. No separate revised scale of pay was provided for selection grade and special grade in the said Government order. With a view to rectify the pay anomaly, the Government appointed One Man Commission and pursuant to the recommendations of the One Man Commission, orders were passed in G.O.Ms.No.254 to 338, Finance (PC) Department, dated 26.08.2010 revising the scale of pay for certain categories, who all were facing pay anomalies. The notional effect was given from 01.01.2006 and the monetary benefits were granted from 01.08.2010. As per G.O.Ms.No.270, dated 26.08.2010, the Government granted the special allowance of Rs.500/- per month to the Secondary Grade Teachers and to other teaching posts in the cadre of Secondary Grade Teachers and Headmasters, High Schools. The Government issued letter, dated 08.11.2010, prescribing the procedures/guidelines to be followed in the case of fixation of pay to the employees in selection grade and special grade post. Thus, the employees awarded selection grade/special grade between 01.01.2006 and 01.06.2009, prior to issuance of G.O.Ms.No.234 were permitted to exercise their option to fix the pay on the date of award of their selection grade/special grade by foregoing arrears entitled to them with effect from 01.01.2007. In the said Government Order, the annexure stipulates the ordinary grade scale of pay as Rs.9300-34800+grade pay 4500, the revised selection grade pay as Rs.15600-39100+grade pay Rs.5400 and the special grade pay as Rs.15600-39100+5700.

3.The Government issued G.O.Ms.No.23, Finance (PC) Department, dated 12.01.2011, to revise the scale of pay of Secondary Grade Teachers, Graduate Teachers, PG Assistant Teachers, Primary School Headmasters, Middle School Headmasters, High School Headmasters, Higher Secondary School Headmasters and District Educational Officers on par with the similarly placed Central Government Employment Teachers. In G.O.Ms.No.23, orders were passed refixing the scale of pay for Primary School Headmasters and Middle School Headmasters with notional effect from 01.01.2006 and monetary effect from 01.01.2011.

4.The Additional Secretary to Government issued a letter, dated 07.02.2011, clarifying that fixation of pay of employees in selection grade/special grade of pay is applicable to Teachers also consequence to the revision of scale of pay as ordered in G.O.Ms.No.23. Teachers whose scale of pay have been revised as per G.O.Ms.23, are entitled to exercise revised option if advantageous, by agreeing to recover the arrears paid.

5.The Principal Secretary to the Government issued a letter, dated 05.01.2012 issuing clarifications for fixation of pay in selection/special grade for certain categories of Teachers including

Primary School Headmasters and Middle School Headmasters. The revised selection grade scale of pay in the post of Primary School Headmasters is Rs. 15600-39100+grade pay Rs.5400 and revised special grade of Rs.15600-39100+grade pay Rs.5700. Additional Fitment Tables were issued in letter, dated 15.09.2010 and accordingly, the scales of pay for some categories have been alienated from one pay band to another.

6.All the writ petitioners exercised their revised option by paying the arrears in lump sum. They were granted selection grade pay in the post of Primary School Headmasters during the period between 01.01.2006 and 31.05.2009. Thus, it is contended that the petitioners are entitled for the revised benefits. The benefits were also granted by the orders of the second respondent, dated 20.04.2011 and 18.05.2011. However, the said benefits granted are sought to be recovered without any show cause notice to the writ petitioners and therefore, the impugned order is in violation of the principles of natural justice.

7.The learned counsel appearing for the writ petitioners contended that the order impugned was passed without even providing an opportunity to the petitioners to depend their cases. The similarly placed Teachers working in other Unions are receiving the benefits and the petitioners alone are discriminated. The authorities competent had failed to comprehensively implement the benefits mentioned in the Government orders. Thus, the impugned orders are liable to be quashed.

8.The learned Additional Government Pleader appearing for the respondents stated that the revised scale of pay fixed for the writ petitioners was erroneous and in order to rectify the mistake, the scale of pay was corrected by the authorities competent. Thus, there is no infirmity as such in respect of the order impugned. The Government order is applicable to the post of Primary School Headmasters or Middle School Headmasters in G.O.Ms.No.23, Finance (PC) Department, dated 12.01.2011. When a specific Government order has been issued regarding the fixation of pay to the categories of Primary School Headmasters and Middle School Headmasters, there is no other reason to refer the other Government orders by the petitioners for the purpose of assailing the impugned orders. This apart, the petitioners have given an undertaking at the time of exercising the re-option. In the undertaking, they have very clearly agreed that in the event of any excess payment, they have no option to recover the same and they agreed for the correction of fixation, if any, made incorrectly. In view of the said undertaking given by all the writ petitioners, no show cause notice is required and accordingly, the respondents applied directives issued in G.O.Ms.No.23, Finance (PC) Department, dated 12.01.2011 and revised the scale of pay as applicable to the writ petitioners and the excess pay is sought to be recovered. Thus, there is no perversity as such.

9.This Court is of the considered opinion that the Constitutional Courts have repeatedly held that unjust enrichment of taxpayers money is impermissible. Erroneous fixation of pay shall be corrected by the authorities competent at any time. Undoubtedly, an opportunity to defend the case is to be provided to the aggrieved employees. However, it is clarified by the Hon'ble Apex Court that in the event of any undertaking at the time of revision of scale of pay, no such notice is required as it becomes an empty formality.

10.Even in the counter affidavit filed by the respondents, it is categorically stated that all the writ petitioners had agreed that if any excess payment is found due to incorrect fixation of pay for the fixation, the excess amount will be remitted to the Government by themselves without insisting for any prior notice and the Hon'ble Supreme Court of India had also passed a recent order in the case of ***Chandi Prasad Uniyal and Others Vs. State of Uttarkhand and Others*** reported in ***2012 (8) SCC 417***, making it clear that the amount paid to the persons concerned due to wrong/irregular pay fixation can be recovered. The refixation of pay in these cases was correctly made as per Rule (1)(i)and (ii) of Rule 4 of the Tamil Nadu Revised Scales of Pay Rules 2009 vide G.O.Ms.No.234, Finance (PC) Department, dated 01.01.2009. In view of the said factum, show cause notice is not at all required as far as the present writ petitioners are concerned. There was absolutely no dispute in fixation of pay to all the petitioners from 01.01.2006, in the scale of pay as applicable to them as per the pay commission Government order issued in G.O.Ms.No.234, Finance (PC) Department, dated 01.01.2009. However, subsequent to the recommendations of the One Man Commission, the Government issued G.O.Ms.No.23, Finance (PC) Department, dated 12.01.2011. The said Government Order stipulates that the Revised Scales of Pay Rules 2009, with reference to the employees working under the Department of School Education and Elementary School Education is approved. As per the said Government order, the pre-revised scale of pay for the Elementary School Headmasters and the Middle School Headmasters are enumerated in Paragraph No.5 of the Government order, which reads as under:-

> "5.மேலும் அலுவலர் குழு மற்றும் அதனைத் தொடர்ந்து நியமிக்கப்பட்ட ஒரு நபர் குபவின் பரிந்துரைகளின் அடிப்படையில் பட்டதாரி ஆசிரியர், முதுகலை பட்டதாரி ஆசிரியர் தொடக்கப்பள்ளி தலைமையாசிரியர், நடுநிலைப்பள்ளி தலைமையாசிரியர் மற்றும் மேல்நிலைப்பள்ளி தலைமையாசிரியர் / மாவட்ட கல்வி ஆசிரியர்களுக்கு நிர்ணயிக்கப்பட்ட ஊதிய விகிதத்தில் உள்ள ஊதிய முரண்பாடுகளைக் களைந்து தக்க ஊதிய திருத்தங்கள் மேற்கொள்ள வேண்டியது அவசியம் எனக்கருதி அதன் அடிப்படையில் ஆசிரியர் பணியிடங்களுக்கு கீழ்க்கண்டவாறு ஊதிய திருத்தங்கள் செய்து அரசு ஆணையிடுகிறது –

வ. எண்.	பதவியின் பெயர்	தற்போதைய ஊதிய விகிதம் +தர ஊதியம்	திருத்திய ஊதியம்
1.	பட்டதாரி ஆசிரியர்	9300-34800*4400	9300-34800*4600
2.	முதகலை பட்டதாரி ஆசிரியர்	9300-34800*4600	9300-34800*4800
3.	தொடக்கப்பள்ளி தலைமையாசிரியர்	9300-34800*4300	9300-34800*4500
4.	நடுநிலைப்பள்ளி தலைமையாசிரியர்	9300-34800*4500	9300-34800*4700
5.	மேல்நிலைப்பள்ளி தலைமையாசிரியர் / மாவட்ட கல்வி அலுவலர்கள்	15600-39100*5400	15600-391000*5700

11.It is relevant to state that in the said Government Order issued in G.O.Ms.No.23, a reference is made regarding the parent G.O.Ms.No.234 as well as the subsequent Government Order issued in G.O.Ms.No.270, dated 26.08.2010. The Government Order issued in G.O.Ms.No.270 relates to the revised scale of pay and grant of special allowances to certain categories. Therefore, the said Government Order is applicable to certain other categories, more specifically, for the post of Music Mistress and Training Instructor. However, the Government Order issued in G.O.Ms.No.23, dated 12.01.2011 is exclusively applicable to the employees working under the Department of School Education and Elementary School Education. Therefore, various Government Orders passed, pursuant to the recommendations of the One Man Commission for rectification of anomaly cannot be taken advantage by the writ petitioners. The Government Orders, which all are relating to the post of Elementary School Headmasters and Middle School Headmasters alone are to be considered for the purpose of grant of revision of scales of pay to the petitioners in all these writ petitions.

12.The learned counsel for the writ petitioners solicited the attention of this Court regarding the Government Letter, dated 05.01.2012, which is a letter of clarification issued subsequently. However, the said Government letter cannot have any overriding effect on the parent Government Order issued in G.O.Ms.No.23, Finance (PC) Department, dated 12.01.2011. Thus, any clarificatory letter issued by the Government is to be read cogently and in consonance with the parent Government Order passed in G.O.Ms.No.23, Finance (PC) Department, dated 12.01.2011. The clarificatory letter cannot provide any further advantage with reference to the fixation of pay already done in the parent Government Order. This being the principle to be followed only by relying the clarificatory letter, in the petitioner cannot seek the remedy. The Courts are bound to see the parent Government Order passed by the Government for revision of scales of pay.

13.G.O.Ms.No.23, Finance (PC) Department, dated 12.01.2011 fixed the pay notionally from 01.01.2006 and monetary benefits from 01.01.2011. Accordingly, the ordinary scale of pay of Primary School Headmaster was revised from Rs.9300-34800+grade pay Rs.4300 to Rs.9300-34800+grade pay Rs.4500 as per G.O.Ms.No.23, Finance (PC) Department, dated 12.01.2011. The corresponding selecting grade pay for Primary School Headmasters as per the Government letter, dated 08.11.2010 is Rs.15600-39100+grade pay Rs.5400. The selection grade and special grade scales of pay for the ordinary grade scales of pay are made admissible to those who were awarded selection grade or special grade prior to 01.01.2006 and between the period from 01.01.2006 to 31.05.2009 and employees were allowed to exercise the re-option for fixation of pay in the scale admissible to them as per the Government letter, dated 08.11.2010.

14.As per Rule (1)(i) and (ii) of Rule 4 of the Revised Scales of Pay Rules 2009, the pay drawn re-option dated in the pre-revised scales of pay that was existed prior to 01.01.2006, should be multiplied by a factor of 1.86 and rounding of the resulted figure to the next eligible of 10 and if the amount so arrived, is less than the minimum pay in the revised scale of pay, that is less than the total sum of minimum of the amount of pay band plus grade pay, the pay of the employee should be fixed at the minimum pay (minimum of pay band plus grade pay). The pre-revised scale of pay for selection grade Primary School Headmaster was Rs.6500-200-10500. The selection grade scale of pay in the revised scale of pay for Primary School Headmaster is Rs.15600-39100+5400. Therefore, the minimum pay of selection grade primary school headmaster is Rs.21,000/-(15600+5400). The petitioners' pay was Rs.7100/- on the date of selection grade in the Primary School Headmaster in the pre-revised scale of pay of Rs.6500-200-10500. To arrive the revised scale of pay, the pay of Rs.7,100/- should be multiplied by a factor of 1.86 and the resultant figure would be Rs.13,206/- and after rounding off it to the next multiple of 10, it would be Rs.13,210/- and after adding grade pay of Rs.5,400/-, the total amount would be Rs.18,610/-. But it is below the minimum pay of Rs.21,000/- in the scale of pay Rs.15600-39100+5400. Therefore, the petitioners' pay ought to have been fixed only at Rs.21,000/- in the selection grade scale of pay of Primary School Headmaster of Rs.15600-34800+5400 on the date of his re-option. However, the pay of these petitioners were erroneously fixed at Rs.21,470/- by the second respondent by wrongly following Table 15 communicated in Government Letter, dated 15.09.2010, which is applicable to those, whose scale of pay are revised based on G.O.Ms.No.254 to 340, Finance (PC) Department, dated 26.08.2010, despite the fact that the petitioners' scale of pay was revised as per G.O.Ms.No.23, dated 12.01.2011. Thus, the revised scale of pay with reference to G.O.Ms.No.23 was made and accordingly, the respondents corrected the mistake occurred earlier on account of the orders passed by the second respondent.

15.The petitioners had given written undertaking while exercising the option to fix their pay in the revised scale of pay to the effect that any payment that may be found to have been made as a result of incorrect fixation of pay or any excess payment detected in the light of discrepancies noticed subsequently, it will be refunded by them to the Government either adjustment against future payments due to him or otherwise without insisting for any prior notice. In view of the fact that no prior notice was issued to the writ petitioners in order to refix their pay with reference to the Government Orders, the second respondent found that the fixation of pay at Rs.21,470/- on 13.11.2006 is wrong and Table 15 communicated in Government Letter, dated 15.11.2010 is not applicable to the case of the petitioner and it is applicable to those who are covered by G.O.Ms.No.254 to 340, Finance, dated 26.08.2010. Thus, the second respondent vide proceedings, dated 31.03.2012 refixed the petitioners' pay at Rs.21,000/- with effect from 13.11.2006 and directed to remit the excess pay of Rs.12,894/- received by the petitioners for the periods from 01.11.2011 to 29.02.2012.

16.It is made clear that the petitioners are eligible for refixation of pay at Rs.21,000/- from 13.11.2006 in view of revision of scale of pay in G.O.Ms.No.23, Finance, dated 12.01.2011 and therefore, the pay already drawn in excess could not be compared with the eligible pay now refixed and therefore, the fixation of pay cannot be construed as reduction of pay and it is to be taken as a correct pay fixation as per the Government Orders in force.

17.This Court has considered the principles regarding the recovery of excess amount from the Government employees with reference to the Judgment of the Hon'ble Supreme Court of India in W.P.(MD)Nos.19010 to 19018 of 2014, dated 20.06.2019 and the relevant paragraphs are extracted hereunder:-

> 14.The Hon'ble Supreme Court of India in the case of ***Chandi Prasad Uniyal and others v. State of Uttarakhand and others*** reported in ***2012 (8) SCC 417***, the settled legal principles in the matter of recovery as follows;
> “His lordship Justice K.S.P.Radhakrishnan.J, while speaking for the Bench considered the earlier judgment of the Supreme Court including the judgment of the Three Judge Bench of the Supreme Court in Saiyad Abdul Kadip reported in 2009 (3) SCC475 as well as Shyam Babu Verma's case

reported in ***(1994) 2 SCC 521*** held as follows:

> *14.We are concerned with the excess payment of public money which is often described as "tax payers money" which belongs neither to the officers who have effected over-payment nor that of the recipients. We fail to see why the concept of fraud or misrepresentation is being brought in such situations. Question to be asked is whether excess money has been paid or not may be due to a bona fide mistake. Possibly, effecting excess payment of public money by Government officers, may be due to various reasons like negligence, carelessness, collusion, favouritism etc. because money in such situation does not belong to the payer or the payee. Situations may also arise where both the payer and the payee are at fault, then the mistake is mutual. Payments are being effected in many situations without any authority of law and payments have been received by the recipients also without any authority of law. Any amount paid/received without authority of law can always be recovered barring few exceptions of extreme hardships but not as a matter of right, in such situations law implies an obligation on the payee to repay the money, otherwise it would amount to unjust enrichment.*
>
> *15. We are, therefore, of the considered view that except few instances pointed out in Syed Abdul Qadir case and in Col. B.J. Akkara (retd.) case, the excess payment made due to wrong/irregular pay fixation can always be recovered.*
>
> *16. Appellants in the appeal will not fall in any of these exceptional categories, over and above, there was a stipulation in the fixation order that in the condition of irregular/wrong pay fixation, the institution in which the appellants were working would be responsible for recovery of the amount received in excess from the salary/pension. In such circumstances, we find no reason to interfere with the judgment of the High Court. However, we order the excess payment made be recovered from the appellant's salary in twelve equal monthly installments starting from October 2012."*

15.Subsequently, the Three Judge Bench of the Hon'ble Supreme Court of India in the case of State of Panjab and others etc Vs. Rafiq Masih (White Washer) reported in (2014) 8 SCC 883 again reiterated the principles laid down in the case of Chandi Prasad Uniyal and others v. State of Uttarakhand cited supra, para -8 of the judgment of the Three Judges Bench reiterates the legal principles laid down in Chandi Prasad Uniyal case as follows:-

> "8.We are of the considered view, after going through various judgments cited at the bar, that this court has not laid down any principle of law that only if there is misrepresentation or fraud on the part of the recipients of the money in getting the excess pay, the amount paid due to irregular/wrong fixation of pay be recovered."

16.During the year 2015, once again the Two Judges Bench of the Hon'ble Supreme Court in the case of ***State of Punjab v. Rafiq Masih*** reported in ***(2015) 4 Supreme Court Cases 334*** in paragraph No.18 of the judgment is relevant and the same is extracted hereunder:-

> *"18.It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:*
>
> *(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).*
>
> *(ii)Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.*
>
> *(iii) Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.*
>
> *(iv)Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.*
>
> *(v) In any other case, where the court arrives at the conclusion, that recovery if made from the employee, would iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."*

17.As far as 2015 case of the Supreme Court is concerned, the principles laid down in Chandi Prasad Uniyal case as well as in Rafiq Masih case by the Three Judges Bench of the Supreme Court was reiterated and only exceptions were drawn by stating that in the event of no misrepresentation on the part of the employees belonging to Group III and IV. The excess amount if at all any paid need not be recovered. However, the fixation can be corrected. Thus, 2015 judgment clarifies that only on certain circumstances in respect of certain class of employees and also the retired employees, the excess amount paid cannot be recovered and not in all other cases. Thus, the legal principles settled by the Chandi Prasad Uniyal case and Rafiq case decided by the Three Judges Bench of Supreme Court holds the field of recover and that is to be followed as a binding precedent.

18.Even recently, the Two Judges Bench of the Hon'ble Supreme Court in the case of High Court of Punjab and Haryana v. Jagdev Singh reported in AIR 2016 SC 3523 reiterated the principles followed by the earlier judgments of the Apex Court and accepted the exception cared out in 2015 Rafiq Misih case. Thus, the legal position in the matter of recovery is now settled and accordingly the Government Servants cannot be allowed to enjoy any unjust enrichment of tax payers money.

19.There is a growing trend in the State of Tamil Nadu that the Sub-ordinate officials at the District level and in Panchayat level such Government Orders are some time misinterpret to the advantage of the employees and arrears of amount are drawn from the Government Treasuries. In other words, there are large scale collusions amongst to the District level authorities with the employees for the purpose of drawing these pay commission arrears and thereby causing financial loss to the State exchequer for the purpose of gaining unjust enrichment in favour of the employees. These aspects sought to be clearly considered by the Higher Authorities of the Government and all appropriate actions are to be initiated against in all such cases."

18.This Court is of the considered opinion that in view of the clear undertaking given by the writ petitioners that any excess payment is deducted subsequently, the same will be refunded by the petitioners to the Government either adjustment against future payments due to them or otherwise without insisting for any prior notice, now, they cannot turn around and plead that they are entitled for a show cause notice before issuing the impugned order of correct fixation of pay.

19.Further, the writ petitioners are entitled for fixation only with reference to the Government Orders issued in G.O.Ms.No.23, dated 12.01.2011, which was exclusively issued by the Government fixing the scale of pay as applicable to the cadre, in which, the petitioners are working, more specifically, Primary School Headmasters and Middle School Headmasters. Based on certain clarificatory letters, the petitioners cannot claim any excess salary, which is otherwise impermissible with reference to the Government orders issued in G.O.Ms.No.23. The authorities competent traced out the incorrect fixation and rectified the same by issuing the impugned order. Such a course of action is certainly permissible and in consonance with the legal principles settled.

20.This being the facts and circumstances of all the writ petitions on hand, this Court do not find any merit in the contentions raised by the petitioners and accordingly, all these writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sji

To

1. The District Elementary Educational Officer,
   Tirunelveli District, Tirunelveli.

2. The Assistant Elementary Educational Officer,
   Keelapavoor, Keelapavoor Range,
   Tenkasi Taluk,
   Tirunelveli District.

+1cc to the SPL GP SR. No.25708.

W.P.(MD).Nos.5702, 5703, 5704, 5705, 5706
and 5707 of 2012, 4833, 4834, 4835,
4836, 4837 and 4838 of 2012
15.12.2020

SV2(CO)
CS(20.01.2021) 12P 4C