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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2021

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.31758 of 2013

and

M.P.No.1 of 2013 and M.P.No.1 of 2014

S.Durairaj

..Petitioner

vs.

1. The Secretary to Government,
School Education Department,
Fort St.George,
Chennai-600 009.

2. The Joint Director of School Education
(Vocational Education),
College Road, Chennai-600 006.

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

4. The Headmaster,
Government Higher Secondary School,
Kalamaruthur-606 102.
Villupuram District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records pertaining to the orders of the 4th respondent in proceedings Nil dated 12.07.2013 relating to re-fixation and recovery of pay in the cadre of Vocational Teacher and quash the same.

For Petitioner : Mr.S.Kamadevan

For Respondents: Mr.V.Nanmaran,
Additional Government Pleader (Education)

O R D E R

The petitioner, challenging the impugned order of recovery passed by the fourth respondent, has filed the present writ petition.



2. It is the case of the petitioner that he reached the Selection Grade Scale of Pay with effect from 01.10.2006 and awarded with Selection Grade Vocational Instructor pay and therefore, he is entitled to Selection Grade scale of pay of Rs.15,600-31900 + 5400 as per the VI Pay Commission recommendations issued in G.O.Ms.No.234 Finance Department dated 01.06.2009. By applying the above said Government Order, the fourth respondent has fixed Selection Grade pay to the petitioner at Rs.15600-39100 + 5400 as on 04.10.2006 and granted annual increments regularly and the above fixation is based on the recommendations of the One Man Commission which culminated in issuing G.O.Ms.No.23, Finance Department dated 12.01.2011. According to the petitioner, the above fixation and revision of pay are in accordance with the clarifications issued by the Government after the issuance of G.O.Ms.No.234, Finance Department dated 01.06.2009. It is the grievance of the petitioner that when he was allowed to draw the above revised scale of pay, to his shock and surprise, the impugned order came to be passed by the fourth respondent dated 12.07.2013 stating that as per audit objections, the petitioner is entitled to Rs.4,800/- Grade Pay only and not Rs.5,400/- and attempting to refix his pay band at Rs.9300-34800 + Grade Pay of 4,800/- and consequently directed the petitioner to remit the excess amount in the Government Account. Challenging the same, the present writ petition has been filed.

3. Mr.S.Kamadevan, learned counsel for the petitioner would submit that the matter in issue is squarely covered by an earlier decision of this Court in similar batch of writ petitions in W.P.Nos.2950 to 2952 of 2014 etc., batch dated 03.02.2020, wherein this Court, by recording the submission of the learned Government Advocate for the State, has disposed of the writ petitions by observing that the consequential recovery proceedings passed in pursuant to the impugned Government Order therein cannot be given effect to and therefore, prays that the present writ petition may also be disposed of on similar lines.

4. This Court has considered the submissions made and perused the materials placed before it.

5. Similar identical issue came up for consideration before this Court in W.P.Nos.2950 to 2952 of 2014 etc., batch, wherein this Court, vide order dated 03.02.2020, has observed as under:

"6.The petitioners have challenged the impugned G.O.Ms.No.263 dated 22.07.2013 before the Madurai Bench of this Court in W.P.(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



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01.04.2013, revising the G.O.Ms.No.263, dated 22.07.2013. Following the said order dated 19.03.2018, the Government had issued G.O.Ms.N.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 G.O.Ms.No.306, Finance (CMRC) Department dated 12.09.2018 reads as under:

"8.The above orders shall be applicable to all the Vocational 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.

8. It is seen from the G.O.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 G.O.Ms.No.263, Finance (Pay Cell) Department, dated 22.07.2013 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 submission of the learned Government Advocate for the State and the G.O.Ms.No.306, Finance (CMRC) Department dated 12.09.2018 are recorded."

6. Thus, following the aforesaid order passed by this Court in similar batch of writ petitions, the present writ petitions are also disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Jvm

To

1. The Secretary to Government,
School Education Department,
Fort St.George, Chennai-600 009.



2. The Joint Director of School Education
(Vocational Education),
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Villupuram District,
Villupuram.

4. The Headmaster,
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Kalamaruthur-606 102.
Villupuram District.

+1cc to the Government Pleader, S.R.No.65284

W.P.No.31758 of 2013

KSM(CO)
RGA(16/12/2021)