



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.18434 of 2021

and

W.M.P.Nos.19646 to 19648 of 2021

(Through Video Conferencing)

C.Joice Parimala

... Petitioner

Vs

1.The State of Tamilnadu,
Rep by its Secretary,
Department of Higher Education,
Fort St.George, Chennai - 600 009.

2.The State of Tamilnadu,
Rep by its Secretary,
Finance (PC) Department,
Fort St.George, Chennai - 600 009.

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

4.The Joint Director of Collegiate Education,
Vellore Region, Vellore District.

5.The Secretary,
Voorhees College,
Vellore, Vellore District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned orders issued by the 4th respondent Joint Director in Na.Ka.No.834/C2/2020 dated 14.07.2020 and Na.Ka.No.834/C2/2020 dated 28.04.2020 (ordering recovery to re-fix the pay scale), quash the same and further direct the respondents herein to continue to pay salary which the petitioner had been drawing hitherto with all attendant benefits.



For Petitioner : Mr.H.Mary Sowmi Rexi

For Respondents: Mr.L.S.M.Hasan Fizal
Government Advocate

WEB COPY

ORDER

The petitioner was appointed as a typist with the 5th respondent college in the year 1998 and was promoted as a Assistant in the year 2012.

2.During the interregnum, on view of the implementation of 6th Pay Commission for the Central Government Employees, the Government of Tamil Nadu issued G.O.Ms.No.234 Finance (Pay Cell) Department, dated 01.06.2009 whereby the salary of Government employees including those serving any aided educational institutions were sought to be revised.

3.The petitioner was receiving selection grade pay with effect from 01.02.2011 and the benefit of G.O.Ms.No.234 Finance (Pay Cell) Department, dated 01.06.2009 has clarified by the Chief Secretary to the Government of Tamil Nadu vide communication dated 08.11.2010 was given with effect from 01.03.2008 to the petitioner. Now, the respondents have issued the impugned communication whereby they are seeking to revise the salary payable to the petitioner on the ground that the petitioner has been paid higher salary contrary to G.O.Ms.No.234 Finance (Pay Cell) Department, dated 01.06.2009 as it was not applicable to employees of aided college and that it was applicable only to persons working in medical service of the Government.

4.The petitioner who serving as a Assistant is Class - III employee. Therefore recovery even if higher pay was made to her, it cannot be allowed in the light of the decision of the Hon'ble supreme court in State of Punjab Vs. Rafiq Masih (White Washer) 2015 4 SCC 334.

5.However, whether any amount which is being paid to the petitioner from a date immediately prior to notice issued pursuant to which the impugned order has been passed may be issuing a proper notice to the petitioner. Even if this was a wrong conclusion, the petitioner has getting higher salary. Therefore, this Court is inclined to dispose this writ petition by directing the respondent to issue proper notice/show cause notice to the petitioner to show cause as to why the salary that is being paid to the petitioner should not be revised in terms of the G.O.Ms.No.234 Finance (Pay Cell) Department, dated 01.06.2009 as clarified by the Chief Secretary to Government



vide dated 08.11.2010. The impugned order straight away seeking to revised the salary cannot be countenanced.

6. Under these circumstances, this writ petition is disposed by directing the 3rd respondent to issue proper notice, if any, within a period of 30 days from the date of receipt of a copy of this order. Petitioner is also permitted to give proper reply/representation.

7. In case, the respondent comes to a conclusion that the amount paid to the petitioner after the date of prior notice the respondents are entitled to recover the amount from the petitioner for the period commencing from 14.07.2020.

8. The salary, that is being currently paid shall be continued to be paid with a rider with any excess amount paid to the petitioner will be subject to deduction in future pursuant to the orders to be passed by the respondent.

9. Writ Petition stands disposed of with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

jas

To

1. The Secretary,
The State of Tamilnadu,
Department of Higher Education,
Fort St. George, Chennai - 600 009.
2. The Secretary,
The State of Tamilnadu,
Finance (PC) Department,
Fort St. George, Chennai - 600 009.
3. The Director of Collegiate Education,
College Road, Chennai - 600 006.
4. The Joint Director of Collegiate Education,
Vellore Region, Vellore District.



+1cc to the Government Pleader, S.R.No.45205

W.P.No.18434 of 2021
and

W.M.P.Nos.19646 to 19648 of 2021

WEB COPY

RGN(CO)
CB(02/11/2021)