



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2021

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THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD)No.17859 of 2014

and

M.P. (MD)No.2 of 2014

1.R.Velchamy
2.N.Manoharan
3.G.Chitradevi
4.C.Muneeshwari
5.M.S.Mathipriya
6.R.Ashok Kumar
7.A.Panchanathan
8.M.Dhanapandi
9.T.Chandrasekar

... Petitioners

vs.

1.The Principal Secretary,
Finance Department,
Secretariat, Chennai - 9.

2.The Principal Secretary,
School Education Department,
Secretariat, Chennai - 9.

3.The State Project Director, SSA
DPI Campus, Chennai - 6.

4.The Director,
Director of School Education,
DPI Campus, Chennai - 6.

5.The Teacher Recruitment Board,
represented by its Member Secretary,
College Road, Chennai - 6.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of second respondent relating to the impugned order in Letter No.13644/CC1(f)/2014-1, dated 24.06.2014 and to quash the same and consequently, to direct the first and second respondents to fix the salary as per the 6th Pay Commission.



For Petitioners : Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates
For Respondents : Mr.M.Linga Durai
Government Advocate

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O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order of the second respondent, dated 24.06.2014 and to direct the first and second respondents to refix the salary of the petitioners as per 6th Pay Commission.

2.All the petitioners in this Writ Petition have a common cause of action and grievance and hence, they were permitted to file a single Writ Petition.

3.Heard Mr.M.Ajmal Khan, learned Senior Counsel appearing for the petitioners and Mr.M.Linga Durai, learned Government Advocate appearing for the respondents.

4.The fifth respondent conducted a written examination to the post of Project Coordinators and Block Resource Teachers Educators equivalent to B.T.Assistant under the Sarva Shiksha Abhiyan Scheme on 13.07.2008. The petitioners, who participated in the examination, were successful in passing the examination. It is stated by the petitioners that the respondents conducted certificate verification on 29.04.2009 and sent individual communication on 19.05.2009 to all, who were provisionally selected. However, the appointment orders were issued only on 25.08.2009 to the petitioners due to administrative delay. All the petitioners herein were appointed in the month of August 2009, except the first petitioner, who was appointed on 28.10.2009.

5.The grievance of the petitioners is that candidates, who were appointed prior to 01.06.2009 are entitled to the benefit of salary equivalent to the salary fixed in the 6th Pay Commission. Stating that several other persons, who joined in service in September'2009, were also given higher salary, it is the specific case of the petitioners that they were discriminated. The certificate verification for all the petitioners was conducted and the petitioners were provisionally selected on 19.05.2009. Since the petitioners were not given the benefit, that was given to other candidates, who were appointed prior to 01.06.2009, it is submitted that it is a clear case of discrimination and that there is no reason or circumstances, which would justify such inequity. When the petitioners and others were recruited pursuant to the



same process of selection, there cannot be a discrimination or disparity on the pay structure, especially, when there is no justification for prescribing the cut off date.

6. It is also admitted before this Court that the Government issued G.O.Ms.No.340, Finance Department, dated 26.08.2010, based on the request of the Employees Association and individual employees before the One Man Commission constituted to examine the anomalies in relation to the Junior Assistants/Agricultural Officers etc., who were recruited through TNPSC. The Government passed the order directing to remove the pay anomaly pointed out by the One Man Commission. Accordingly, the employees, who were recruited as Junior Assistants/Agricultural Officers, etc., in the same batch prior to 01.06.2009, but appointed on a subsequent date on or after 01.06.2009, due to administrative reasons, are allowed the fitment benefit. Though the Government Order was in relation to Junior Assistants/Agricultural Officers, the policy of Government was to remove the pay anomaly among the persons, who were recruited by the TNPSC in the same batch. Hence, the petitioners herein sent representation to remove the pay anomaly comparing the pay structure of similarly placed persons. However, by the impugned order, the representation of the petitioners was rejected. Aggrieved by the same, the present Writ Petition is filed.

7. The learned Senior Counsel appearing for the petitioners submitted that based on G.O.Ms.No.340, dated 26.8.2010, several persons, who were appointed as Junior Assistants/Agricultural Officers by direct recruitment, were given the benefit of G.O.Ms.No.340, Finance Department, dated 26.08.2010. In a batch of Writ Petitions filed by several petitioners relating to regularization of Junior Assistants/Agricultural Officers and fixation of seniority granted the relief to the Writ Petitioners therein, this Court has directed the respondents to refix the pay and allowance on par with the Writ Petitioners' batch mates, who joined prior to 01.06.2009 and who were given the benefit of G.O.Ms.No.340, Finance Department, dated 26.08.2010 with all monetary benefits. The order passed by the learned Single Judge was followed in the order, dated 23.11.2010, in **W.P. (MD) No. 7144 of 2014 in G.Muruganantham and ten others vs the The Agricultural Production Commissioner/Principal Secretary of Agriculture and two others**, and the said order was also confirmed by the Division Bench of this Court by judgment, dated 04.08.2021 in W.A.No.1836 of 2021.

8. The learned Government Advocate, however, placing reliance on the Government Order vide G.O.Ms.No.340, Finance Department, dated 26.08.2010, submitted that the Government Order is



selected prior to 01.06.2009. The learned Government Advocate further submitted that G.O.Ms.No.340, Finance Department, dated 26.08.2010, cannot be applied to the petitioners, who were recruited to the post of Project Coordinators and Block Resource Teachers Educators.

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9.It is true that the Government Order vide G.O.(Ms)No.340, Finance Department, dated 26.08.2010, was passed on the recommendation of One Man Commission to remove the pay anomaly in the case of Junior Assistants/Agricultural Officers, who were selected prior to 01.06.2009 and appointed on or after 01.06.2009. It is not in dispute in the present case that the petitioners also were selected prior to 01.06.2009 but appointed after 01.06.2009 due to administrative reasons. Therefore, in principle, the petitioners' claim that they should be treated on par with others, who were also selected in the same process of recruitment, appears to be lawful. It is the duty of Government to remove pay anomaly, if they have reasons to believe that the disparity was due to some administrative delay.

10.The decision of Government in the case of Junior Assistants/Agricultural Officers is a formal expression of the policy of the Government in matters relating to re-fixation of salary on par with persons selected by the same process but appointed after a particular date due to administrative delay. Unless, there is a strong reason to treat a particular category of cases differently the decision vide G.O.Ms.No.340, Finance Department, dated 26.08.2010, cannot be ignored and the Government cannot reject the case of others in other departments ignoring the decision already taken in respect of a class of people. In this case, the Government Order vide G.O.Ms.No.340, Finance Department, dated 26.08.2010, was on the basis of recommendation of One Man Commission to remove pay anomaly. When it is the duty of the Government to remove pay anomaly in exercise of its sovereign function, this Court is unable to find any justification in not applying the decision of Government vide G.O.Ms.No.340, Finance Department, dated 26.08.2010 in the case of petitioners. While extending the benefit of G.O.Ms.No.340, Finance Department, dated 26.08.2010, to several other persons, this Court in W.P.(MD)Nos.15375 to 15383 of 2013, by its order, dated 03.10.2019, observed that the benefit of G.O.Ms.No.340, Finance Department, dated 26.08.2010, should be extended to similarly placed persons.

11.Having regard to the admitted facts, this Court is of the view that the petitioners are also entitled to get the benefit of G.O.Ms.No.340, Finance Department, dated 26.08.2010. Accordingly, the impugned order passed by second respondent, dated 24.06.2014, is quashed. The first and second respondents are directed to fix



the salary of petitioner as per 6th Pay Commission and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)

tmg/cmr

To

- 1.The Principal Secretary,
Finance Department,
Secretariat, Chennai - 9.
- 2.The Principal Secretary,
School Education Department,
Secretariat, Chennai - 9.
- 3.The State Project Director, SSA
DPI Campus, Chennai - 6.
- 4.The Director,
Director of School Education,
DPI Campus, Chennai - 6.
- 5.The Member Secretary,
Teacher Recruitment Board,
College Road, Chennai - 6.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-32342[F] dated 25/10/2021)

+1 CC to M/s.SPL.GP (SR-32594[F] dated 26/10/2021)

W.P. (MD)No.17859 of 2014
22.10.2021

RK/PM (02/11/2021) 5P 8C