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W.P.Nos.3132 to 3134 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.3132 to 3134 of 2017

and

W.M.P.Nos.3051, 3052, 3053, 3054, 16005, 3055 & 3056 of 2017

- | | |
|---------------------|--|
| 1. S.Elizabeth Rani | ... Petitioner
in W.P.No.3132 of 2017 |
| 2. N.Yazhmozhi | ... Petitioner
in W.P.No.3133 of 2017 |
| 3. P.S.Jayanthi | ... Petitioner
in W.P.No.3134 of 2017 |

Vs.

1. The Government of Tamil Nadu,
Represented by Secretary to Government,
Finance (CMPC) Department,
Fort St.George,
Chennai – 600 009.
2. The Secretary,
The Government of Tamil Nadu,
School Education Department,
Fort St.George,
Chennai – 600 009.
3. The Director of School Education,
College Road,
Chennai – 600 006.



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4. The Joint Director of School Education (Vocational),
College Road,
Chennai – 600 006.
 5. The Chief Educational Officer,
Cuddalore District,
Cuddalore.
 6. The District Educational Officer,
Cuddalore District,
Cuddalore.
 7. The Secretary,
Neyveli Lignite Corporation Girl's Higher Secondary School,
Block-11, Neyveli – 3,
Cuddalore District.
- ... Respondents
in all W.Ps.

Prayer in all W.Ps.: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records of the first respondent in relation to Letter No.66858/CMPC/2013-2 dated 22.08.2014 and quash the same in so far as it restricts the selection grade scale of pay of the Vocational Instructor at Rs.9300-34,800 + 4800 Grade Pay and in so far as the petitioner is concerned and issue a consequential direction to the respondents to grant selection grade scale of pay of petitioner at Rs.15,600-39,100 + 5400 from 01.01.2011 with monetary benefits continuously with an annual increment for the year 2015 and 2016, as per the Government Letter No.63305/PC/10-1, Finance Department dated 08.11.2010 of the first respondent and grant all consequential benefits to the petitioner.



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For Petitioner : Mr.R.Saseetharan
in all W.Ps.

For Respondents :

For R1 : Mr.P.Gurunathan
Additional Government Pleader

For R2 to R6 : Mrs.S.Mythreye Chandru
Special Government Pleader

For R7 : No Appearance

ORDER

The proceedings dated 22.08.2014, issued by the first respondent re-fixing the pay of the writ petitioners, are under challenge in these writ petitions.

2. The issue regarding fixation of pay to the Vocational Instructors was considered by this Court in a batch of writ petitions in ***W.P.Nos. 2654, 2924 and 2663 of 2018 dated 19.03.2018*** in the case of ***L.Natarajan Vs. The State of Tamil Nadu & others*** and the relevant portion of the order reads as follows:

"6. A Government letter cannot prevail over a Government order issued under Article 162 of the



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Constitution of India. But then, as per the proceedings of the Principal Accountant General, Chennai, the monetary benefits can be given only from 01.04.2013. If they have been mistakenly given from the earlier date, the excess pay has to be recovered.

7. The learned counsel appearing on behalf of the writ petitioner placing reliance of the Hon'ble Supreme Court of India in 2015 (4) SCC 334 [State of Punjab v. Rafiq Masih] held that an order of recovery may not be made. Though the Hon'ble Supreme Court made it clear that only if it would cause hardship, recovery ought not be effected. In this case, some of the writ petitioners who have retired are very much getting pension. Therefore, the order of recovery will not cause hardship to them.

8. The Standing Counsel appearing on behalf of the Principal Accountant General, Chennai, submits that the objection was made in the year 2011. That apart, the proceedings dated 14.07.2014 of the Principal Accountant General, Chennai, are not under challenge.

9. Therefore, these writ petitions are partly allowed by holding that selection grade Vocational Instructor are entitled to be paid selection grade scale of pay Rs.15600-39100+GP 5400 admissible with monetary



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benefits from 01.04.2013. No costs. Consequently, connected miscellaneous petitions are closed."

3. The said order passed by this Court was implemented by the Government and a Government Order was issued in G.O.Ms.No.306, Finance (CMPC) Department, dated 12.09.2018. The said Government order reads as under:

"7. As there is no promotional avenues for the post of vocational instructors it would not be appropriate to restrict their Selection Grade/ Special Grade scales of pay as that of BT Assistant who are having promotional prospects of elevating to the post of Head Master High School/ Head Master Higher Secondary School/ District Educational Officer in the light of the above facts. The Government has decided to implement the orders of the Madurai Bench of Madras High Court dated 19.03.2018 in W.P.(MD).No.2694, 2924 & 2663 of 2018 and 15980 & 17197 of 2014. Accordingly, the Government direct that the Selection Grade Scale of Pay of Vocational Instructors who were awarded Selection Grade prior to 01.01.2016 and in the case of employees who have exercised their opinion to come over to the revised scales of pay on the date of their award of Selection Grade between 01.01.2006 and 31.05.2009 shall be refixed in



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the scale of pay of Rs.1600-39100 + G.P.5400 notionally with effect from 01.01.2006 on the date of award of Selection Grade in the post of Vocational Instructor with monetary benefits from 01.04.2013.

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."

4. In view of the above order of this Court and the Government Order passed in G.O.Ms.No.306, Finance (CMPC) Department, the cases of the petitioners are also directed to be considered and accordingly, appropriate orders are to be passed based on the said G.O., dated 12.09.2018, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

5. With this direction, these Writ Petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

02.12.2022



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Speaking order/Non-speaking order
rgm/mrn

To

1. The Secretary to Government,
The Government of Tamil Nadu,
Finance (CMPC) Department,
Fort St.George,
Chennai – 600 009.
2. The Secretary,
The Government of Tamil Nadu,
School Education Department,
Fort St.George,
Chennai – 600 009.
3. The Director of School Education,
College Road,
Chennai – 600 006.
4. The Joint Director of School Education (Vocational),
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Neyveli Lignite Corporation Girl's Higher Secondary School,
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S.M.SUBRAMANIAM, J.

rgm/mrn

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