



WEB COPY



W.P.No.25957 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.33752, 34380, 34382 &34397 of 2018
and W.M.P. Nos.39945, 39947, 39952, 39954,
39957, 39958, 39964 & 39966 of 2018

K.Saravanan

...Petitioner
in W.P.No.33752 of 2018

R.Shanmugasamy

...Petitioner
in W.P.No.34380 of 2018

G.Mahimaidoss

...Petitioner
in W.P.No.34382 of 2018

P.Murali

...Petitioner
in W.P.No.34397 of 2018

Vs.

1.The State of Tamil Nadu,
Rep. by Principal Secretary to Government,
Finance (Pay Cell) Department,
Fort St. George,
Chennai – 600 009.

2.The Chief Educational Officer,
District Collectorate Compound,
Villupuram,
Villupuram District.

..Respondents



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Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records from the 1st Respondent relating to the G.O.Ms.No.240 Finance (Pay Cell) Department dated 22.7.2013 and quash that portion of the order in paragraph 4 of the said G.O. dated 22.7.2013 in so far as it fixes time limit of six months for exercising re-option for going over to the revised scale of pay between 1.1.2006 and 1.1.2009 and direct the Respondent to consider the representation of the Petitioner dated 3.11.2017 exercising re-option and grant the benefit of the G.O.Ms.No.240, Finance (Pay Cell) Department dated 22.7.2013 and pay the arrears to the Petitioners

For Petitioner : Mr.S.Ayyathurai
in all W.Ps

For Respondents : Mrs.S.Mythreye Chandru
in all W.Ps Special Government Pleader

COMMON ORDER

The petitioners challenges the Government Order issued in G.O.Ms.No.240, Finance (Pay Cell) Department, dated 22.07.2013, mainly on the ground that the copy of the Government Order was not communicated to the School in which the petitioners were working which resulted denial of an opportunity to exercise re-option for availing the benefit of revised scale of pay in accordance with the said



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Government Order issued in G.O.Ms.No.240, dated 22.07.2013.

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2.The learned counsel for the petitioners mainly contended that the Government Orders relating pay rules, revision of pay etc., are to be communicated to all the Government servants. In the present case, as per the Government Order, a copy was marked to all the Chief Educational Officers of the respective Districts and those Chief Educational Officers are bound to serve the Government Orders to all the Government servants enabling them to exercise their revised option which is a facility provided by the Government Order for availing the revised scale of pay.

3.The learned counsel for the petitioners is of an opinion that the Government Orders in this regard are to be communicated and the information must reach all the Government servants for the purpose of availing the benefits conferred in the Government Orders. Therefore, the petitioners have challenged the Government Order seeking extension of time for exercising re-option enabling them to avail the monetary benefits in the revised scale of pay.

4.The learned Special Government Pleader appearing on behalf of the respondents made a submission that the copy was communicated to the Chief



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Educational Officers by the Government who in turn communicated the copies to the respective Schools and the Institutions. Once, it is communicated to the Schools, it is for the teachers to exercise their option in the manner prescribed in the Government Order. Government cannot ensure that the copies communicated individually to all the Government servants and it was communicated on institution basis by the respective officials concerned and the Government servants are expected to be vigilant in these kind of matters and it is their responsibility to exercise the option or re-option as the case may be as stated in the Government Orders. The counter filed by the respondents states as follows:

It is not the duty of the 2nd Respondent to intimate the orders of the Government, to the teachers. If the Petitioner wants to know about the Government, he can approached the next superior (i.e. the Block Educational Officer, Vikravandi). He has also stated in para 6 of the affidavit that the Petitioner and other teachers like him, were not aware of the impugned Government order due to non-communication of the said G.O. by the 2nd Respondent. It is not possible to communicate all the Government Orders by the 2nd Respondent to all the teachers. As stated supra, he might have approached the Block Educational Officer for the awareness of the Government orders.



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5.It is further stated that the petitioners failed to adhere to the time limit fixed by the Government for exercising the re-option and now, they are seeking for cancellation of the time limit prescribed by the Government to exercise their re-option. The time limit fixed by the Government is not only to the petitioners, but also to all the Government employees across the State of Tamil Nadu. Thus, it is not feasible to cancel the time limit to exercise option and in the event of any such extension it would unsettle the revision of scale of pay amongst to the Government employees who all are eligible and exercised their option based on the Government Order.

6.The learned Special Government Pleader further made a submission that the writ petition itself has been filed after long years and to be rejected on the ground of laches. The Government Order was issued on 22.07.2013, permitting the employees to re-exercise their option for revision of scale of pay. Paragraphs 3 and 4 of the Government Order which is impugned states as follows:

3.) After careful examination, the Government has decided to implement the above recommendation of the Pay Grievance Redressal Cell. Accordingly, Government direct that in exercise of the powers



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conferred under Rule, 12 of the Tamil Nadu Revised Scales of Pay Rules, 2009, accord permission to the employees as a final opportunity for exercising re-option to come over to the revised scale of pay between 1--1--2006 and 31-5-2009 as a one time measure in cases where option could not be exercised within the time limit to the advantage of the individual employees. However, such re-option should not be in any case lead to fixation of lower pay than what has been fixed earlier.

4) The above Government Order shall be in force for a period of six months from the date of issue and any requests for exercising re-option from employees after the above period shall not be entertained.

7. Therefore, the petitioners have filed the present writ petitions after a lapse of about five years from the date of passing of the Government Order and in this regard, the learned counsel for the petitioners states that the petitioners have no knowledge about the Government Order and only after knowing about the Government Order, they filed the present writ petitions. Ignorance of Government Orders relating to the revision of scale of pay or implementation of Pay Commission is not a ground to file writ petition after several years. The Government servants are expected to know about the Service Rules which all are in force. In the present case,



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the Government communicated the order to all the Chief Educational Officers who in turn has communicated the same to the Institutions and it is for the authorities to inform about the Government Order and if at all any lapse occurred on the part of the subordinate officials, the Government cannot be blamed and on that ground extension cannot be granted which would unsettle the settled position in the matter of revision of scale of pay. In the event of extending time, it will result in opening of Pandora's Box and many number of Government employees have already exercised their option for revision of scale of pay. Some employees would not have exercised their re-option. All the settled position cannot be now unsettled and in the event of reopening the same, it will result in huge financial implications to the State exchequer and therefore, this Court is of an opinion that it is the omission on the part of the petitioners to enquire about these aspects during the relevant point of time with the concerned authorities. However, the Government servants are expected to know about service conditions and service rules and expected to be vigilant in knowing about the Government Orders which all are issued for their benefits. This being the factum, the relief as such sought for in the present writ petitions deserves no merits



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S.M.SUBRAMANIAM, J.

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consideration. Consequently, the writ petitions stand dismissed. No Costs.

Consequently, connected miscellaneous petitions are closed.

26.10.2022

Index : Yes
Internet : Yes
Speaking order : Yes
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