



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.14868, 14871, 14875, 14877, 14878 & 14883 of 2020

S.Asaitambi ... Petitioner in WP(MD).14868/2020
P.Karuppiah ... Petitioner in WP(MD). 14871/ 2020
E.Marimuthu ... Petitioner in WP(MD). 14875/ 2020
G.Mathiazhagan ... Petitioner in WP(MD). 14877/ 2020
S.Chandra Sekaran ... Petitioner in WP(MD). 14878/ 2020
R.Manimegalai ... Petitioner in WP(MD). 14883/ 2020
Vs.

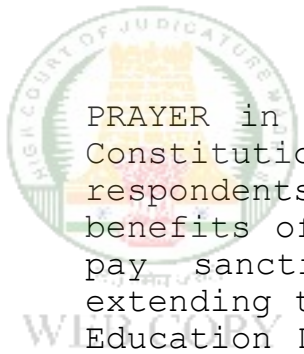
1.The Principal Secretary to the Government
Finance Department
Fort St.George
Chennai-9

2.The Principal Secretary to the Government
School Education Department
Fort St.George
Chennai-9

3.The Director of School Education
DPI Compound, College Road
Chennai-6

4.The Joint Director (Vocational)
Directorate of School Education
DPI Compound, College Road
Chennai-6

5.The Accountant General
(Accounts and Entitlements)
Accountant General Department
Chennai ... Respondents in all WPs



PRAYER in all W.Ps: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the respondents 2 and 5 to refix the scale of pay and pensionary benefits of the petitioner at Rs.2000-3500 on par with the scale of pay sanctioned to similarly placed vocational instructors by extending the benefit of Government Order in G.O.(1D) No.327, School Education Department, dated 18.11.2013 along with all consequential monetary benefits for the service rendered by the petitioner in the post of Vocational Instructors within the time period stipulated by this Court.

In all W.Ps

For Petitioner : Mr.S.Manikandan

For Respondents : Mr.G.V.Vairam Santhosh

Additional Government Pleader for R1 to R4

C O M M O N O R D E R

Since the issues involved in all the writ petitions are one and the same, they have been clubbed together, heard together and are being disposed of by this common order.

2. The relief sought for in all the writ petitions is to direct the respondents 2 and 5 to refix the scale of pay and pensionary benefits of the petitioners at Rs.2000-3500 on par with the scale of pay sanctioned to the similarly placed Vocational Instructors by extending the benefit of the Government Order in G.O. (1D) No.327, School Education Department, dated 18.11.2013 along with all consequential monetary benefits for the service rendered by them in the post of Vocational Instructors, within the time stipulated by this Court.

3. All the petitioners are retired Teachers. They were initially appointed as Part Time Vocational Instructors. Subsequently, they were absorbed as B.T.Assistants and thereafter, retired from service on attaining the age of superannuation. The grievance of the petitioners is to refix their scale of pay and pensionary benefits at Rs.2000-3500, which was granted long back to the B.T.Assistants.

4. This Court is of the considered opinion that during the relevant point of time, the petitioners were not holding the post of B.T.Assistant and they were working as Part Time Vocational Instructors. Therefore, they cannot compare their scale of pay applicable to the B.T.Assistants during that point of time for the purpose of refixation of scale of pay with retrospective effect with monetary benefits.



5. The learned Additional Government Pleader appearing for the respondents 1 to 4, relying on the counter affidavit filed by the third respondent, made a submission that by G.O.Ms.No.6, School Education Department, dated 04.01.2000, *ad hoc* rules were framed and based on the said Government Order, before 01.01.1996, the scale of pay applicable to the Vocational Instructors was 1400-40-1600-50-2300-60-2600 and after 01.01.1996, the scale of pay was 5500-175-9500-. Therefore, the contention of the petitioners are not relevant to the present request at all. Thereafter, the Government issued G.O.(Ms) No.68, School Education Department, dated 20.03.2007, granting the benefit of regularization of service in respect of Vocational Instructors and the said regularization would not confer any right to get the scale of pay at Rs.2000-3500. That apart, the Court order obtained by one G.Narayanasamy, during that relevant point of time, was confined only to the said Narayanasamy and the same cannot be followed in all other cases more specifically, after a lapse of many years. The petitioners herein were not appointed in a sanctioned post. They were initially appointed as Part Time Vocational Instructors and subsequently, absorbed in the cadre of B.T.Assistant.

6. The learned Additional Government Pleader further submits that there is no equality exists in the case of Vocational Instructors in the cadre of B.T.Assistant, who seeks the scale of pay more than that of P.G.Assistants. The factual position, in this regard, is extracted hereunder:

<i>Details</i>	<i>Vocational Instructor (BT Cadre) Agriculture</i>		<i>P.G.Assistant / Post Graduates</i>	
<i>Pay Scale</i>	<i>Prior to 1.6.1988 GO.555/10.6.85 Dip.holders</i>	<i>1045-1775 For Bsc 1160-1950</i>	<i>Prior to 1.6.1988</i>	<i>1160-1950</i>
	<i>From 1.6.1988 GO.666 27.6.89</i>	<i>For Dip.holder 1400-2600 For Degree 1640-2900</i>	<i>From 1.6.1988</i>	<i>1640-2900</i>
<i>Pay Scale</i>	<i>From 1.1.1996 GO.427/28.8.98</i>	<i>5500-175-9000</i>	<i>From 1.1.1996</i>	<i>6500-10500</i>
<i>Pay Scale</i>	<i>From 1.1.2006 G.O.Ms.23, Fin.121.2011</i>	<i>9300-34800 Grade Pay 4600</i>	<i>From 1.1.2006</i>	<i>9300-34800 Grade Pay 4800</i>



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Recruitment method	Petitioners were working as Part time Vocational Instructors and absorbed in BT time scale wef.16.10.1992 without following communal rotation and other service rules	Direct recruitment Post graduates duly following communal rotation and by competitive exam method
Qualification for appointment	B.Sc.Agric	Post Graduate in the relevant field
Promotion opportunity as per rules	Eligible for promotion as P.G.Assistant as per seniority and rules	Eligible for Headmaster of Higher Sec. School according to seniority
Sanctioned post	Post sanctioned only in the cadre of vocational instructors in BT Cadre	Post sanctioned in the post graduate Assistants

Hence, Vocational Instructors cannot be paid with the scale of pay applicable to that of post graduate assistants who were all appointed by specific recruitment method and Vocational Instructors (B.T.Assistant) and the Post graduate Assistants are not equal. Hence, the Government order relied upon by the petitioner cannot be considered as an ultimate decision and the Government have got the right to rectify such error.

7. Further, the post of Vocational Instructors (BT Assistant Cadre) and P.G.Assistant are distinguishable for the following reasons:

Details	Vocational Instructor (BT Cadre) Agriculture		P.G.Assistant / Post Graduates	
Pay Scale	Prior to 1.6.1988 GO.555/10.6.85 Dip.holders	1045-1775 For Bsc 1160-1950	Prior to 1.6.1988	1160-1950
	From 1.6.1988 GO.666 27.6.89	For Dip.holder 1400-2600 For Degree 1640-2900	From 1.6.1988	1640-2900
Pay Scale	From 1.1.1996 GO.427/28.8.98	5500-175-9000	From 1.1.1996	6500-10500



<i>Pay Scale</i>	<i>From 1.1.2006 G.O.Ms.23, Fin.121.2011</i>	<i>9300-34800 Grade Pay 4600</i>	<i>From 1.1.2006</i>	<i>9300-34800 Grade Pay 4800</i>
<i>Recruitment method</i>	<i>Petitioners were working as Part time Vocational Instructors and absorbed in BT time scale wef.16.10.1992 without following communal rotation and other service rules</i>		<i>Direct recruitment Post graduates duly following communal rotation and by competitive exam method</i>	
<i>Qualification for appointment</i>	<i>B.Sc.Agri</i>		<i>Post Graduate in the relevant field</i>	
<i>Promotion opportunity as per rules</i>	<i>Eligible for promotion as P.G.Assistant as per seniority and rules</i>		<i>Eligible for Headmaster of Higher Sec. School according to seniority</i>	
<i>Sanctioned post</i>	<i>Post sanctioned only in the cadre of vocational instructors in BT Cadre</i>		<i>Post sanctioned in the post graduate Assistants</i>	

8. In view of the facts that the petitioners were initially appointed as Part Time Vocational Instructors and subsequently absorbed as B.T.Assistants and their scale of pay was already fixed during that relevant point time and they were also continued in service for several years and retired from service and now after retirement, they have filed the present writ petitions seeking retrospective fixation of scale of pay on par with B.T.Assistants, who were recruited as B.T.Assistants, the question of comparison would not arise at all. Therefore, the petitioners are not entitled for the relief as such sought for in the present writ petitions.

9. Accordingly, the writ petitions are dismissed. No costs.

Sd/-

Assistant Registrar (CS I)

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/ /2022

Sub Assistant Registrar (CS)

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To:

1.The Principal Secretary to the Government,
Finance Department,
Fort St.George, Chennai-9.

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School Education Department,
Fort St.George, Chennai-9.

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Chennai-6.

4.The Joint Director (Vocational),
Directorate of School Education,
DPI Compound, College Road,
Chennai-6.

5.The Accountant General
(Accounts and Entitlements)
Accountant General Department
Chennai

+1 CC to M/s.SPL.GP (SR-20139[F] dated 21/04/2022)

W.P. (MD) No.14868, 14871, 14875, 14877,
14878 & 14883 of 2020
20.04.2022

MGJ(04.05.2022) 6P 7C