



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P. (MD)No.1106 of 2015

and

M.P(MD) Nos.1 to 3 of 2015

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T.Daniel Ponnappan

... Petitioner

Vs.

1.The State of Tamil Nadu

Rep. by its Principal Secretary,
Finance (CMPC) Department,
Fort St. George,
Chennai - 600 009.

2.The Director of School Education,
College Road,
Chennai - 600 009.

3.The Joint Director
(Vocational) of School Education,
College Road,
Chennai - 600 006.

4.The Chief Educational Officer,
Nagercoil,
Kanyakumari District.

5.The Head Master
Government Higher Secondary School,
Thuckalay,
Kanyakumari District.

... Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Letter No.66858/CMPC/2013-2, dated 22.08.2014 on the file of the first respondent and quash the same as illegal and consequently to direct the Respondents to provide the Selection Grade Scale of Pay of Rs.15600 - 39100 + 5400 to the petitioner.

For Petitioner	: Mr.T.Lajapathi Roy
For Respondents	: Mr.Om Prakash, Government Advocate

O R D E R

This writ petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to quash the impugned order of the first respondent in Letter No.66858/CMPC/2013-2, dated 22.08.2014 and

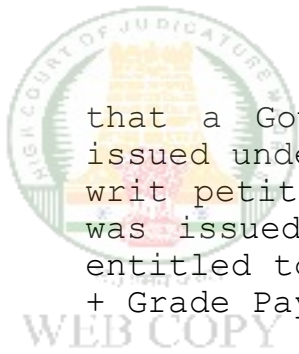


consequently, to direct the respondents to provide the Selection Grade Scale of Pay of Rs.15600 - 39100 + Grade Pay 5400 to the petitioner.

2. Heard the learned counsel appearing for the petitioner and learned Government Advocate appearing for respondents.

3. Learned counsel appearing for the petitioner submitted that the petitioner was appointed on 12.07.1997 and his post was regularized as Vocational Instructor at Government Higher Secondary School, Rajakka Mangalam, Kanyakumari District. After several years of service, the Vocational Instructors were treated as B.T.Assistants on par with the scale of pay fixed as Rs.15600 - 39100 + Grade Pay 5400. The petitioner had completed more than 10 years of service and moved to Selection Grade prior to 01.01.2006 and was eligible for Selection Grade pay. The Vocational Instructors were not entitled for inclusion in the panel for promotion to the post of Head Masters of the High Schools and even the chance of promotion for the Vocational Instructors to become P.G Assistant was also negatived. Vocational Instructor was treated on par with the B.T. Assistant and they were paid the same ordinary grade pay scale as that of the B.T. Assistant. However, in G.O.Ms.No.263, Finance (Pay Cell) Department, dated 22.07.2013, revision of pay scale was ordered with notional income effect from 01.01.2006. The first respondent passed the impugned order, dated 22.08.2014 stating that Selection Grade pay scale with grade pay for B.T. Assistant is restricted to Rs.9300 - 34800 + Grade pay of Rs.4800/-. The pay of Vocational Instructor should also be fixed on the same scale. Challenging the impugned order dated 22.08.2014, the present writ petition has been filed.

4. It is further submitted by the learned counsel for the petitioner that in similar writ petition in W.P.(MD) No.2663 of 2018, this Court after discussing the issue found that the scale of pay of Vocational Instructor was revised to Rs.9300 - 34800 + 4600 Grade Pay. This is the scale of pay paid to ordinary Vocational Instructor. Those who have put in 10 years of service would move to Selection Grade. Their revised scale of pay is Rs.15600 - 39100 + 5400 Grade Pay. This is evident from the proceedings of the Principal Accountant General, Chennai, dated 14.07.2014. It is also observed in this order that by subsequent letter dated 22.08.2014 that the Government took a stand that the revised Selection Grade scale of pay for the Vocational Instructor would also be Rs.9300 - 34800 + 4800 Grade pay. This Government Order is contrary to the earlier G.O.Ms.No.263 dated 22.07.2013. The subsequent Government letter suffers from two errors. Firstly, it equates Vocational Instructor with B.T.Assistant, that is not sustainable for the reason that B.T. Assistant has more than one promotional avenue. Vocational Instructor remains Vocational Instructor during their entire career. The Selection Grade Vocational Instructor will get a Grade Pay of Rs.5,400/-. Finally, it was observed in this order



that a Government letter cannot prevail over a Government Order issued under Article 162 of the Constitution of India and hence, the writ petition was allowed. A direction to the respondents therein was issued stating that Selection Grade Vocational Instructor are entitled to be paid Selection Grade scale of pay of Rs.15600 - 39100 + Grade Pay 5400, admissible with monetary benefits from 01.04.2013.

5. It is further submitted by the learned counsel for the petitioner that in line with the batch of writ petitions in W.P.(MD) Nos.2654, 2924 and 2663 of 2018, the Government issued a G.O.Ms.No.306 dated 12.09.2018 directing that the Selection Grade of pay of Vocational Instructors, who were awarded Selection Grade prior to 01.01.2006 and in the case of employees, who have exercised their option to come over to the revised scale of pay on the date of their award of Selection Grade between 01.01.2006 and 31.05.2009, it shall be refixed in the scale of pay at Rs.15600 - 39100 + Grade Pay 5400 notionally with effect from 01.01.2006 or the date of award of Selection Grade in the post of Vocational Instructor with monetary benefits from 01.04.2013. Thus, the learned counsel for the petitioner prays that as per the order of this Court in W.P.(MD) Nos.2654, 2924 and 2663 of 2018 dated 19.03.2018, the petitioner is entitled for fixing his pay of Selection Grade of Vocational Instructor as stated above.

6. The learned Government Advocate appearing for the respondents concedes the issuance of G.O.Ms.No.306 dated 12.09.2018.

7. In view of the fact that the prayer of the petitioner has been considered positively by this Court in W.P.(MD) Nos.2654, 2924 and 2663 of 2018 and subsequent G.O.Ms.No.306, dated 12.09.2018, this Court finds that the petitioner is entitled for fixation of pay in Selection Grade Vocational Instructor at Rs.15600 - 39100 + Grade Pay 5400 as prayed.

8. In this view of the matter, as per letter in G.O.Ms.No.306 dated 12.09.2018, the respondents are directed to fix the pay of the petitioner in the Selection Grade Vocational Instructor at Rs.15600 - 39100 + Grade Pay 5400 notionally with effect from 01.01.2006 and with monetary benefits from 01.04.2013.

9. Accordingly, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)



To **மேன்மையான நீதி**

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+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-26332[F] dated 17/06/2022)

+1 CC to M/s.SPL.GP (SR-26514[F] dated 17/06/2022)

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