



W.P.No.27339 of 2010

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 16.11.2023

PRONOUNCED ON : 27.11.2023

CORAM

THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**

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and M.P.No. 2 of 2010

- 1.M.Rajappan
- 2.G.Narasimhan
- 3.P.Manoharan
- 4.R.Ramesh
- 5.M.Sadasivan
- 6.T.Jagadeesan
- 7.P.V.Tamil Selvi
- 8.S.Natarajan
- 9.M.Rajendran
- 10.P.Meena
- 11.S.V.D.Rajan
- 12.A.Esthar Amma Olive
- 13.S.Vijayalakshmi
- 14.S.Thangavel
- 15.S.Parthiban
- 16.A.Muthukumaraseshan

... Petitioner

VS

- 1.The Government of Tamil Nadu
Rep., by Secretary to Govt.,
Finance Department,



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Fort St., George, Chennai – 9.

2. The Government of Tamil Nadu,
Rep., by Secretary to the Govt.,
School Education Department,
Fort St., George, Chennai – 9.

3. The Director of School Education,
College Road, Chennai – 6.

4. The Chief Educational Officer,
Dharmapuri District,
Dharmapuri.

5. The Chief Educational Officer,
Erode District, Erode.

6. The Chief Educational Officer,
Madurai District, Madurai.

7. The Commissioner,
Corporation of Madurai,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus, calling for the records of the first respondent in relation to his proceedings issued in letter No.45113/Pay Cell/2009-1, dated 17.08.2009, and quash the same in so far as the said impugned Government letter denies personal pay of Rs.600/- to the Headmasters of Higher Secondary School is concerned and issue a consequential direction to the respondents to grant a personal pay of Rs.600/- to the members of the petitioners Association as per the G.O.Ms.No.720 Finance (Pay Cell) Department, dated 17.12.1998, continuously .



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For Petitioners : Mr.Saseetharan

For Respondent : Mr.S.Ravichandran AGP for RR1to6
Mr.Abhinav Parthasarathy for R7 **ORDER**

The instant Writ Petition had been filed challenging the proceedings issued by letter dated 17.08.2009, and quash the same in so far as the said impugned order denies personal pay of Rs.600/- to the Headmaster of the Higher Secondary School and issue a consequential direction to the respondents to grant personal pay of Rs.600 to the petitioner as per G.O.Ms.No.720, dated 17.12.1998.

2. Heard Mr.Saseetharan, learned counsel appearing for the petitioner, Mr.S.Ravicharan, learned Additional Government Pleader appearing for the respondents 1 to 6 and Mr. Ashinav Parthasarathy, learned counsel appearing for the seventh respondents.

3. The learned counsel appearing for the petitioner would submit that the petitioners are all working as Headmasters of Higher Secondary School, some are working as Headmasters of Government Higher Secondary school, Headmaster of Municipal Girls Higher Secondary School and Headmaster of Corporation Higher Secondary School under the Madurai Corporation.



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The Government issued G.O.Ms.No.720, Finance (Pay Cell) Department, dated 17.12.1998 by granting personal pay along with the existing pay scales of the Headmasters of High School and Headmasters of Higher Secondary School at the rate of Rs.500 per month and Rs.600 per month respectively. The said personal pay sanctioned above shall be considered as pay for all purposes of Dearness Allowance, House Rent Allowance, City Compensatory Allowance and Pensionary benefits. It was also further ordered that the said personal pay granted under the said Government Order shall apply to the Headmasters of High schools and Higher Secondary schools in the Social Defence, Forest, Adi-Dravidar and Tribal Welfare, Backward Classes and Most Backward Classes Welfare and Social Welfare Department and also those in the Aided Institutions.

4. He would submit that these petitioners on their promotion, were not granted the personal pay as ordered under G.O.Ms.No.720 and therefore, they had made various representations. Since a clarification had been sought for on various issues of pay pursuant to a Government Order issued in G.O.Ms.No.234, dated 01.06.2009, the Principal Secretary to Government in its letter dated 17.08.2009, had issued a clarification on the said Government Order and in particular with regard to the lis, it was



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clarified that the personal pay drawn by the Headmasters of High Schools and Higher Secondary Schools, who have joined in the post prior to 01.01.2006, had been directed to be taken into account for fixation of pay in the revised pay scales and therefore, the individuals who were promoted as Headmasters of High Schools and Higher Secondary Schools on or after 01.06.2009, are not entitled for the personal pay in the revised pay structure. He would submit that the Government Order issued in G.O.Ms.No.234, was only an executive instruction, which cannot supersede the grant of personal pay as ordered in G.O.Ms.No.720, which is a Special Pay that had been ordered by the Government. To support his contention, he relied upon the judgment of this Court made in W.P.(MD).Nos.4235 to 4239 of 2007, dated 13.03.2013 on that aspect and therefore, would contend that the clarification issued by the first respondent is wholly improper and therefore, seek to set aside the said clarification, insofar it disentitles the Headmasters of High Schools and Higher Secondary Schools from the benefit of the grant of personal pay and consequently direct the respondents to grant personal pay to the petitioners as envisaged under G.O.Ms.No.720.

5. Countering his arguments, S.Ravichandran, learned Additional Government Pleader appearing for the respondents 1 to 6 would submit at



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the outset the petitioners have all been appointed to the post of Headmasters only after 01.06.2009. He would submit that it is true that the Government had issued G.O.Ms.No.720, granting personal pay as claimed by the petitioners based upon the representations that had been made by the association of Headmasters of High Schools and Higher Secondary Schools. Such personal pay was granted taking into account the administrative responsibility that is being shouldered by the Headmasters in addition to the teaching duties. He would further submit that a committee appointed by the Government made recommendations to revise the pay structures of Government servants working in various departments. One such recommendation was to dispense with the personal pay granted to certain categories and adhoc personal pay granted to the Office Assistant and Hospital Workers. While dispensing with such personal pay to avoid the monetary loss to the incumbents who had already enjoyed the benefit of personal pay, the Government had directed the personal pay drawn by such employees to be absorbed while fixing the pay in the revised pay structure. In view of such specific direction to absorb the personal pay in the revised pay structure, the personal pay that had been drawn by such beneficiaries have been included in the revised pay of the Headmasters of High Schools and Higher Secondary Schools and their pay had been revised. Pursuant to



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the said recommendation, the Government had also framed Tamil Nadu Revised Scales of Pay Rules, 2009, (2009 Rules) and the same has also be notified. The same had not been challenged by the petitioners.

6. Further, he would submit that the pay scales of the Headmasters have been revised under the said Rules by taking into consideration their personal pay that had been enjoyed by them prior to 01.06.2009 and therefore, the personal pay that had been granted under G.O.Ms.No.720, had been made as part of their pay scales in view of the revision made under the 2009 Rules. Therefore, they do not have any loss by dispensing with the personal pay that they have been enjoying prior to 01.06.2009. When the revised pay had been made pursuant to the aforesaid Rules, they have neither challenged the revised pay nor have been challenged the Rules, pursuant to which such revised pay scales have been made. Therefore, he would submit that the Writ Petition itself is not maintainable as the clarification given by the first respondent to G.O.Ms.No.234, had culminated into the 2009 Rules and prays this Court to dismiss the Writ Petition.

7.I have heard the rival submissions made by the respective counsels



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appearing for the parties and perused the materials placed on record.

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8. It is an undisputed case that the Government by G.O.Ms.No.720 Finance (Pay Cell) Department, dated 17.12.1998, had granted personal pay to the persons, who have holding the post of Headmasters in the High School and Higher Secondary Schools considering the administrative responsibility that had been shouldered by them. The Government in G.O.Ms.No.234, on the recommendations of the committee appointed to that purpose had decided to revise the pay scales of the Government servants. Clause 11 of the said Rules envisages to dispense with the personal pay that had been granted to certain categories and also adhoc personal pay to certain categories. However, by dispensing with the said personal pay, it was recommended to absorb that personal pay to those categories in their revised pay scales, so that they do not suffer any monetary loss. The Government pursuant to the said G.O., also seems to have been notified the 2009 Rules, pursuant to which the pay scales of the Headmasters of High School and Higher Secondary School have been revised and while revising such pay scales as ordered by G.O.Ms.No.234, the personal pay that had been received by them, pursuant to G.O.Ms.No.720, had also been absorbed in the revised pay scales. This



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revision of pay or the Rules pursuant to which such revision of pay namely, 2009 Rules had not been challenged to by the petitioner. What has been challenged is only a clarification that had been given by the first respondent.

9. Further reliance placed upon on the judgment of the learned Single Judge in W.P.(MD).Nos.4235 to 4229 of 2007, dated 13.03.2013, where, the learned Single Judge had directed the personal pay to be granted to five of the petitioners, is sought to be applied to these petitioners also. In my considered view, the same may not be a correct proposition. The said Writ Petitions had been filed by the petitioners who had been appointed as Headmasters prior to 01.06.2009, before these Rules came into effect. Further, the learned Single Judge who had dealt with the matter had not been appraised of the fact that pursuant to G.O.Ms.No.234, the Government had notified the 2009 Rules. However, the learned Single Judge had proceeded on the basis that the executive instructions given in G.O.Ms.No.234, cannot supersede in G.O.Ms.No.720, which was traceable to Article 309 of the Constitution of India. It is pertinent to note that this view that had been arrived at by the learned Single Judge in that Writ Petition was primarily due to the fact that the learned Single Judge had not been appraised of the fact that the Government Order had been given effect



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by issuance of the Rules, namely Tamil Nadu Revised Scales of Pay Rules, 2009. Therefore, aforesaid judgment cannot be said to be the correct proposition of law.

10. In the present case, the petitioners were all appointed as Headmasters after 01.06.2009. The Rules had been given effect to retrospectively from 01.01.2006. The petitioners therefore cannot claim parity with persons, who had been extended the grant of personal pay under G.O.Ms.No.720. The absorption of pay scale and revision of pay for the Headmasters in High Schools and Higher Secondary Schools had not been denied by the petitioners. Further, 2009 Rules also takes away the personal pay that had been granted to persons who have been promoted prior to 01.06.2009, w.e.f., 01.01.2006, since the revision of pay had been directed to be made w.e.f.01.01.2006, absorbing the personal pay that had been granted to the Headmasters of High Schools and Higher Secondary Schools.

11. In such view of the matter, I do not find any merits in this Writ Petition and the Writ Petition fails and it is dismissed. However, there shall be no orders as to costs. Consequently, connected Miscellaneous Petition is closed.



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Index/ Yes/No

Speaking order: Yes/No

Neutral citation: Yes/ No



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K.KUMARESH BABU,J.

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A Pre-delivery order made in

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