



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

**W.P.Nos.9343, 9344, 9346, 9351, 9353, 9356, 9360, 9362 &
9366 of 2021**

W.P.No.9343 of 2021

K.Rajagopal

... Petitioner

Vs.

1.The Principal Secretary to Government,
Finance (CMPC) Department,
Fort St.George, Chennai 600 009.

2.The Commissioner,
Directorate of Technical Education,
Guindy, Chennai 600 025.

3.The Principal Accountant General,
(A&E) TN,
No.361, Anna Salai,
Chennai 600 018.

4.The Principal,
Government Engineering College,
Salem - 11, Salem District.

... Respondents

PRAYER: The Writ Petition has been filed to issue a Writ of Mandamus to direct the respondents to revise the petitioner's monthly salary as per



the Pay Commission's recommendation with effect from 01.01.2006 and consequently, direct the respondents to pay the arrears with interest in pursuant to the re-fixation of salary.

For Petitioner : Mr.S.Saravanan

For Respondents : Mr.G.Nanmaran, SGP

COMMON ORDER

The petitioners have filed these Writ Petitions to direct the respondents to revise the petitioners' monthly salary as per the Pay Commission's recommendation with effect from 01.01.2006 and consequently, direct the respondents to pay the arrears with interest in pursuant to the re-fixation of salary.

2. Heard Mr.S.Saravanan, learned counsel for the petitioners and Mr.G.Nanmaran, learned Special Government Pleader for the respondents in all Writ Petitions.

3. The petitioners have worked in various posts in the fourth respondent Government Engineering College for more than 20 years and they were permitted to retire from service on attaining the age of



superannuation. The petitioners have been given with selection grade pay after completion of ten years of service and they were also awarded with the special grade. The following table will show the name of the petitioners, date of obtaining Selection Grade and Special Grade and Date of Retirement.

S.No.	Names	date of obtaining selection grade	date of obtaining special grade	date of retirement
1	K.Rajagopal	21.04.1990	22.04.2000	31.05.2007
2	P.Kandammal	23.01.1995	23.01.2005	31.10.2006
3	M.Perumal	05.01.1995	06.01.2005	31.03.2018
4	P.Arumugam	22.09.1992	22.09.2002	31.05.2009
5	M.Thangavel	21.04.1990	22.04.2000	30.06.2008
6	V.Madesh	23.01.1999	23.01.2009	31.03.2019
7	M.Arumugam	30.03.1984	30.03.1994	31.12.2007
8	A.Rangaya Gounder	01.09.1982	01.09.1992	30.06.2007
9	P.Manickam	21.04.1990	22.04.2000	31.10.2006

4. The petitioners' claim is that they are entitled to get the benefit of Tamil Nadu Revised Scales of Pay, 2009 issued vide G.O.Ms.No.234, Finance (PC) Department dated 01.06.2009. Subsequent to the issuance of the above Government Order, there was a lack of clarity on certain



WEB COPY

aspects and hence, the Government has also issued Government Letter in Letter No.63305/Pay Scales/2010-1 dated 08.11.2010 and clarified the persons who would come under the ambit of G.O.Ms.No.234 in order to avail the benefit of refixing their pay under the revised scales of pay 2009. The petitioners' contention is that the clarification letter of the Government would confer right on the petitioners also to claim the revised scale of pay in accordance with the Tamil Nadu Revised Scales of Pay, 2009.

5. However, the learned Special Government Pleader for the respondents submitted that the petitioners who had retired prior to the date of issuance of G.O.Ms.No.234 dated 01.06.2009 cannot claim the benefit of the above Government Order and the petitioners have filed these Writ Petitions by wrongly interpreting the G.O.Ms.No.234 dated 01.06.2009 and the Government Letter No.63305/Pay Scales/2010-1 dated 08.11.2010.

6. The crux of the matter squarely lies on the clarification issued



WEB COPY

by the Government vide the above Government Letter. In the said Government Letter, it is made clear that all those employees who have been given with selection grade / special grade prior to 01.01.2006 in the pre-revised scales of pay were granted due protection by allowing them to move to the corresponding revised pay scales by virtue of the higher pre-revised pay scales drawn by them. The letter further states that the employees awarded with selection grade / special grade between 01.01.2006 to 31.05.2009, can also exercise their option to come under the revised scales of pay on the date of their award of selection grade / special grade by foregoing arrears entitled to them with effect from 01.01.2007.

7. In such case, the petitioners are also entitled to get the same benefit as that of those employees who were awarded with selection grade / special grade prior to 01.01.2006. The crucial date that is applicable for the employees to get the benefit is 01.01.2006. The benefit of revision of scale is also applicable to those who were eligible to get selection grade / special grade between the period from 01.01.2006 to



31.05.2009, provided they exercise the option of shifting to the revised scales of pay, 2009. In such case, they should forego the arrears for which they would be entitled from 01.01.2007 or in other words, if those employees opt to fix their scale of pay under the revised scale, they will be getting the benefit and so, they cannot claim the arrears under the pre-revised pay structure also. The Government Order and the Government Letter referred above are very clear to the point that those employees who had obtained the selection grade / special grade as on 01.01.2006 will get the benefit of revised scales of pay 2009.

8. In such case, the petitioners can very well fall within the ambit of the above Government Order in view of their eligibility to get selection grade / special grade prior to 01.01.2006. In fact the petitioners were drawing selection grade and special grade prior to 01.01.2006 in the pre-revised scales of pay. The respondents cannot have any disagreement on the above aspect.

9. In the counter of the respondents, it is stated that one Parthiban,



WEB COPY

Laboratory Assistant who was permitted to retire on 31.08.2009 in the same College was given with the benefit by wrongly considering the scope of the Tamil Nadu Revised Scales of Pay 2009. Later clarification was issued by the Commissioner of Technical Education vide letter No.41134/A3/2013 dated 31.12.2013 wherein it is clarified that Laboratory Assistant / kammiyar Nilai -II / Trade Post Grade II can avail the benefit of revised scales of pay 2009, if those posts have the scope for promotion. It is clarified that if such post carries promotional avenues, their ordinary pay would be in the scale of Rs.5200-20200 (2400 Grade Pay), the selection grade pay Rs.5200-20200 (2600 Grade Pay), special grade pay Rs.5200-20200 (2800 Grade Pay).

10. Despite these petitioners claimed parity with Laboratory Assistant in whose favour the revised scale of pay was applied, it is clarified by the Government with regard to the above aspect in the letter No.41134/A3/2013 dated 31.12.2013. It is further stated that necessary clarification has also been issued in Government Letter No.2532/C1/2014-2 Higher Education (C1) Department dated



16.03.2015 for fixing the revised selection grade / special grade scales of pay for the non-teaching post (other technical post including Junior Assistant / Typist) in Technical Education Department, it should be restricted to their original grade scale of pay of the first and second level promotion posts with reference to the ad-hoc rules prescribed for that post and as per the orders issued at para-4(i) of the Government Letter No.63305/PC/2010-1, Finance Department, dated 08.11.2010.

11. It is not known whether the petitioners are holding the post of Mechanic, Laboratory Assistant and Electrician Grade II. Further, it is not known from the submission of the learned counsel for the petitioners whether the above posts have the scope for promotion and how in their case, the clarification offered by the Government in Letter No.41134/A3/2013 dated 31.12.2013 will be applicable. So far as the Laboratory Assistant is concerned, it is learnt from the counter of the respondents 1 and 2 that their grade pay has been restricted as clarified in the above said Government Letter. In that case, it is for the first and second respondents to decide how to apply the clarification given on



WEB COPY

31.12.2013 for the individual case of the petitioners and pass appropriate orders. Though at the outset, the petitioners' case falls within the cut-off date 01.01.2006 which is the crucial date for getting the benefits under Tamil Nadu Revised Scales of Pay 2009, various clarifications issued by the Government every now and then, would show how to fix their scale of pay by taking into consideration of the scope for promotion.

12. In view of the same, it is for the respondents 1 and 2 to decide about the merits of the proposal sent by the fourth respondent in accordance with the relevant Government Orders and the Government letters given in this regard from time to time and pass orders.

13. In the result, these Writ Petitions are disposed and the respondents 1 and 2 are directed to decide about the merits of the proposal sent by the fourth respondent in accordance with the relevant Government Orders and the Government letters given in this regard from time to time and pass orders within a period of six weeks from the date of receipt of a copy of this order. No costs.



21.12.2023

Index : Yes/No
Internet : Yes/No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk



WEB COPY

R.N.MANJULA, J.

gsk

To

1.The Principal Secretary to Government,
Finance (CMPC) Department,
Fort St.George,
Chennai 600 009.

2.The Commissioner,
Directorate of Technical Education,
Guindy,
Chennai 600 025.

**W.P.Nos.9343, 9344, 9346, 9351, 9353,
9356, 9360, 9362 & 9366 of 2021**

3.The Principal Accountant General,
(A&E) TN,
No.361, Anna Salai,
Chennai 600 018.

4.The Principal,
Government Engineering College,
Salem - 11,
Salem District.

21.12.2023