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W.P.Nos.6274 to 6296 of 2014 etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.6274 to 6296, 19941, 19942,
19943, 19946, 22567 to 22578 of 2014
and M.P.No.1 of 2014 (38 Nos.)

W.P.No.6274 of 2014 :-

B.Dilli

...Petitioner

-Vs-

1. The Government of
Tamil Nadu,
Rep. by the Principal Secretary,
Fort St. George,
Chennai – 600 009

2. The Director of College Education,
DPI Complex, College Road,
Nungambakkam,
Chennai – 600 006.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the second respondent to pay the petitioner the Selection Grade pay in the pay band – 2 of Rs.9300-34800+4200 in due compliance of the guidelines of the first respondent as framed in sub-paragraph (iv) of paragraph No.4 of the letter No.63305/Pay Cell/2010-1 dated 08.11.2010.



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In all W.Ps.

For Petitioners : Mr.Mubarak Ahamed
For M/s.Ahmad Associates

For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader

COMMON ORDER

All the writ petitions have been filed for direction, directing the second respondent to pay the petitioners the selection grade pay in the pay band-2 of Rs.9300-34800+4200 in due compliance of the guidelines of the first respondent dated 08.11.2010.

2. Since the issues raised in all the writ petitions are common and the petitioners preferred the writ petitions for similar prayer, this Court is inclined to pass common order.

3. The petitioners had joined service in various post in different colleges and subsequently they were made as Laboratory Assistant in their respective colleges. Thereafter, they were moved to selection grade from ordinary grade. The Government of Tamil Nadu Published a notification in the government gazette dated 25.12.1974, thereby amending the special rules for the Tamil Nadu General



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Subordinate Services. The government amended the expression “Attenders” found in part I and II of the said Special rules with expression “Laboratory Assistant” by the said notification.

4. The Special Rules for Tamil Nadu General Subordinate Services class XIV corrected upto 09.11.1982, pertaining to the government Colleges, Education Department, wherein the post of laboratory assistant was found in serial number 18. It had to be filled either by direct recruitment or by transfer from any other class or category or by recruitment by transfer from any other services in ratio of 1:2. Subsequently, the government order in G.O.Ms.No.555 dated 10.06.1985 was issued and accordingly the staff of universities, government colleges and aided private institutions were kept outside the purview of the fourth Tamil Nadu Pay Commission.

5. Therefore, the Associations of Laboratory Assistants submitted their representation on the ground that keeping the Laboratory Assistants working in colleges, from the purview of the fourth pay commission, though they were drawing lesser pay than the Laboratory



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Attendees in school education department. Hence, the Government of Tamil Nadu revised the pay scale of the laboratory assistants in college education from Rs.505-845 to Rs.555-970 in ordinary grade and from Rs.555-970 to Rs.610-1075 in selection grade vide G.O.Ms.No.464 dated 25.03.1988. Thereafter, by G.O.Ms.No.666 dated 27.06.1989, the scale of pay of the laboratory assistants was revised from Rs.555-970 to Rs.825-1200. Subsequently, by G.O.Ms.No.304 dated 28.03.1990, providing selection grade and special grade to such employees who have been drawing the pay scale of Rs.750-945 and above up to the scale of pay of Rs.2500-4200.

6. The first respondent by G.O.Ms.No.527 dated 01.08.1992, revised the scale for ordinary grade laboratory assistants from Rs.825-1020 to Rs.950-1500. Thereafter, by G.O.Ms.No.234 dated 01.06.2009, the employees in the ordinary grade drawing the pay scale of Rs.3050-4590 were awarded pay band of Rs.5200-20200 + grade pay of Rs.1900. The said G.O., provided for moving the employees having completed ten years services, from the ordinary grade to selection grade and from the selection grade to special grade on completion of ten years in the



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selection grade post and on putting total of 20 years of service in a post, with benefit of one increment equal to 3% of the basic pay.

7. Accordingly, the first respondent issued letter dated 08.11.2010, thereby framing guidelines for fixation of pay in the revised selection grade/special grade post. Subsequently, the first respondent issued another order in G.O.Ms.No.63 dated 26.02.2011 thereby revising the grade pay of the laboratory assistants from Rs.1900 & 2000 to Rs.2400, giving notional effect from 01.01.2006 and monetary benefit from 01.03.2011. Pursuant to the said G.O., the first respondent issued letter dated 23.05.2011, thereby revised the scale of pay of selection grade laboratory assistants at Rs.9300-34800+grade pay of Rs.4200. However, the second respondent denied the benefits of the revised pay scale to the petitioners who have moved to selection grade/special grade on or after 01.06.2009. Therefore, the petitioners submitted their representation seeking selection grade pay in compliance of the guidelines issued by the first respondent by his communication dated 08.11.2010. Since the same was not considered, they preferred the present writ petitions with the above said prayer.



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8. Heard the learned counsel appearing on either side and perused the material placed before this Court.

9. On perusal of the counter affidavit filed by the second respondent revealed that the petitioners were originally appointed in various posts and subsequently they were made as laboratory assistants in their respective colleges and awarded selection grade laboratory assistant. After the guidelines issued by the first respondent dated 08.11.2010, the second respondent also issued clarification dated 08.07.2011 to all the Principals of the government colleges and all the Regional Joint Directors on the issue of the laboratory assistants who were already getting selection grade/special grade of pay and who have given option for getting promotion by transfer of service to the post of Junior Assistant/Typist/Storekeeper and who have further been promoted as Assistant etc., and in the event to avoid loss of monetary benefits whether they can continue to draw the same scale of pay in the promoted post along with the benefit of one additional increment entitled for promotion and the clarifications are as follows :-

- *the guidelines given as per 1.0. (Ms) No. 590, Finance (Pay & Allowances) Department dated 1.8.92 which was already conveyed*



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by the Director of Collegiate Education's Proceedings R.C.

No. 61295/22/93 dated 4.10.1995 should be followed;

- *the above such employees will be fixed pay in the Selection Grade/Special Grade as per the said Government Order;*
- *even in the previous Pay Commission fixation the above method was followed;*
- *such employees who attained Selection Grade/Special Grade before 1.1.2006 and such employees who will attain Selection Grade/Special Grade during the period 1.1.2006 to 31.5.2009 who have opted for Pay Fixation will be eligible for the Scale of Pay of Rs. 9300-34800+Grade Pay Rs. 4200 and 9300-34800+Grade Pay Rs. 4400.*
- *the orders issued in G.O. (Rt) No. 63, Finance (Pay Cell) Department, dated 26.2.2011 should be followed.*
- *if any audit objections are raised in future regarding the fixation of Pay, an undertaking from such employees should be obtained to the effect that the monetary benefits drawn by them will be refunded in full and in one installment and such a declaration should be recorded and pasted in their service book.*

10. Further by the letter dated 27.02.2013, the second respondent informed to all the Regional Joint Directors that the clarification given vide letter dated 08.07.2011, will be applicable to the laboratory assistants working in aided private colleges and this may be



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informed to all the Secretaries of aided private colleges. Thereafter, the first respondent vide letter No.4867/G2/2014-2 Higher Education (G2) Department dated 05.06.2014 informed the second respondent that, such of those Laboratory Assistants who attained Selection Grade or Special Grade before 31.12.2005 and continue to work as Typist/Junior Assistant by transfer of service cannot draw pay fixed for the post of Laboratory Assistants whose revised Scale of Pay of Rs.5200- 20200+Grade Pay Rs.2400 was fixed in the Selection Grade/Special Grade Scale of Pay of Rs.9300-34800+Grade Pay Rs.4200 and Rs. 9300- 34800+Grade Pay Rs. 4400. It was duly informed by the second respondent to all the Regional Joint Directors and all the Principals of Government Arts and Science colleges as well as the College of Education vide letter R.C.No. 15641/B2/2011 dated 22.07.2014.

11. It is also seen that the letters dated 05.06.2014 & 22.07.2014 were challenged before this Court in batch of writ petition in W.P.Nos.21787 to 21792 of 2014 etc., batch and this Court dismissed all the writ petitions by an order dated 05.07.2022, on the ground that the petitioners were not entitled to claim the scale of pay of the grade pay



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attached to the post of selection grade or special grade laboratory assistants as they were already promoted and are getting the scale of pay attached to the promoted post.

12. That apart, the government granted the revision of pay and selection grade/special grade scales of pay to laboratory assistants by G.O.Ms. No.271, Finance (Pay Cell) Department, dated 26.08.2010 and by the government letter No.23808/CMPC/2011-1 Finance (CMPC) Department, dated 23.05.2011 on the analogy that there is no promotion for the post of laboratory assistants. Whereas all the petitioners herein after getting selection grade/special grade scale of pay in the cadre of laboratory assistant, have been promoted to different higher post and after getting promotion by transfer of service as Junior Assistant/Typist/Storekeeper and they were drawing salary at a level which is more than prescribed for the existing post. Therefore, the government issued letter dated 05.06.2014 and consequently, the second respondent issued communication dated 22.07.2014, to prevent the monetary loss to the exchequer.



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13. Now all the petitioners are working in the higher post by promotion or by transfer of service in the post of Assistant/Junior Assistant/Typist/Storekeeper and drawing higher salary more than the salary prescribed for the post, from the post of selection grade/special grade laboratory assistant through selection grade/special grade scale of pay. Therefore, they are not eligible for the revised pay of Rs.9300-34800 + grade pay of Rs.4200 in the selection grade scale of pay and Rs.9300-34800 + grade pay of Rs.4400 in the special grade scale of pay.

14. In view of the above discussions, all the writ petitions are devoid of merits and liable to be dismissed. Accordingly, all the Writ Petitions stand dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to cost.

08.09.2023

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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To

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Government of Tamil Nadu,
Fort St. George,
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2. The Director of College Education,
DPI Complex, College Road,
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G.K.ILANTHIRAIYAN. J.

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