



WEB COPY



W.P.No.17659 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2020

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.17659 of 2020

and

W.M.P.No.21904 of 2020

K.Hemalatha
D/o.T.S.Krishnamurthy
Music Teacher
Kalyanam Girls Higher Secondary School
Chindadripet
Chennai 600 002

... Petitioner

/Vs/

1.The Director of School Education
DPI Campus, College Road
Chennai 600 006

2.The Chief Educational Officer
Chennai District
Egmore, Chennai 600 008

3.The District Educational Officer
Chennai South Education District
Egmore, Chennai 600 008

4.The Secretary
Kalyanam Girls Higher Secondary School
Chindadripet
Chennai 600 002

... Respondents



W.P.No.17659 of 2020

Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the third Respondent in Na.Ka.No.4142/A3/2016 dated 05.01.2017 and to quash the same and consequently direct the Respondents to restore the scale of pay of the Petitioner in the post of Music Teacher in the 4th Respondent School with basic pay of Rs.4500-125-7000 as on 01.06.2009 FN with consequential revision of scale of pay and to refund the salary recovered from the Petitioner forthwith including the payment of arrears of salary, within a time frame fixed by this Court.

For Petitioner : Mr.S.Nedunchezhiyan

For Respondents : Mr.T.Arunkumar
Additional Government Pleader

ORDER

This Writ Petition has been filed for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the third Respondent in Na.Ka.No.4142/A3/2016 dated 05.01.2017 and to quash the same and consequently direct the Respondents to restore the scale of pay of the Petitioner in the post of Music Teacher in the 4th Respondent School with basic pay of Rs.4500-125-7000 as on 01.06.2009 FN with consequential revision of scale of pay and to refund the salary recovered from the Petitioner forthwith including the payment of arrears of salary.



W.P.No.17659 of 2020

2. Heard Mr.S.Nedunchezhiyan, learned counsel for the Petitioner and Mr.T.Arunkumar, learned Additional Government Pleader for the Respondents.

3. Mr.S.Nedunchezhiyan, learned counsel for the Petitioner submitted that the Petitioner joined as a Music Teacher on 01.06.2009 in the fourth Respondent School. The claim of the Petitioner is that her salary has to be fixed as per the sixth pay commission in the pay scale of Rs.4500-125-7000. Her scale is revised in PV1 of Rs.5200 – 20200 +2800 GP with fixation of basic salary as Rs.11,170/-. The impugned order has been issued on 05.01.2017 to recover the excess payment made to her between the period from 01.06.2009 to 31.03.2015, stating that the salary has been wrongly fixed in the pay scale of Rs.8370 + 2800 instead of Rs.5470 + 2800. The Petitioner claims that the salary drawn by her is appropriate to her post and hence the recovery itself is illegal. The Petitioner places his reliance on G.O.Ms.No.340 Finance (Pay Cell) Department, dated 26.08.2010. The said G.O.Ms.No.340 Finance (Pay Cell) Department, dated 26.08.2010 has been issued to set right anomalies that has arisen subsequent to the fixation of sixth pay commission. The employees Association has requested the Government to rectify the anomaly and grant equal pay on par with their counter parts in the same batch who joined duty



W.P.No.17659 of 2020

prior to 01.06.2009. The Government has considered the request of the Union and had issued orders to rectify the anomaly. The relevant part of the G.O.Ms.No.340 Finance (Pay Cell) Department, dated 26.08.2010 is extracted as under:

“4.The Government has carefully examined the above recommendations of the One Man Commission and decided to rectify the anomaly as pointed out by the powers conferred under Rule – 13 of the Tamil Nadu Revised Scales of Pay Rules, 2009 relax the Rule – 9 of the Tamil Nadu Revised Scales of Pay Rules, 2009 in favour of the incumbents recruited as Junior Assistants from among the Contract Assistants/Agricultural Officers and any other similar categories of posts recruited by the Tamil Nadu Public Service Commission in the same batch prior to 01.06.2009 and joined/appointed on a subsequent dated on or after 01.06.2009 due to administrative reasons duly allowing the fitment benefit to the individual employees concerned as a special case. However, Government direct that the above fixation benefit shall be given notional effect from the date of appointment of the individual employees concerned with monetary benefit from 01.08.2010.”

4.The above Government Order clarifies that the G.O.Ms.No.340 Finance (Pay Cell) Department, dated 26.08.2010 goes to the benefit of those person



W.P.No.17659 of 2020

squarely applicable.

WEB COPY

6.In view of the same, this Writ Petition is partly allowed, so as to quash the impugned proceedings issued by the third Respondent in Na.Ka.No.4142/A3/2016 dated 05.01.2017 in respect of recovery alone, with a direction to the third respondent to release the amount already recovered from the Petitioner to her. No costs. Consequently, connected Miscellaneous Petition is closed.

28.11.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

sai



W.P.No.17659 of 2020

WEB COPY

- To
- 1.The Director of School Education
DPI Campus, College Road
Chennai 600 006
 - 2.The Chief Educational Officer
Chennai District
Egmore, Chennai 600 008
 - 3.The District Educational Officer
Chennai South Education District
Egmore, Chennai 600 008
 - 4.The Secretary
Kalyanam Girls Higher Secondary School
Chindadripet
Chennai 600 002



WEB COPY



W.P.No.17659 of 2020

R.N.MANJULA, J.

sai

W.P. No.17659 of 2020
and
W.M.P.No.21904 of 2020

28.11.2023