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WP.No.30250 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

W.P. No.30250 of 2014

and

M.P.Nos.1 & 2 of 2014

1. S.Vallinayagam

2. S.Saravanan

.... Petitioners

Vs

1. Director of School Education,
DPI Complex, College Road,
Chennai – 600 006.

2. Joint Director School Education (Vocational),
Office of Director of School Education,
DPI Complex, College Road,
Chennai – 600 006.

3. The Chief Educational Officer,
Chief Educational Office,
Salem, Salem District.

4. The Headmaster,
Government Higher Secondary School,
Nadupatti, Salem District – 636 351.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India
praying to issue Writ of Certiorarified Mandamus calling for the records
of the 4th respondent in proceedings Na.Ka.No.76/13, dated 22.07.2013



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and quash the same and consequently direct the respondents to give pay protection to the petitioners without reduction of pay or re-fixation by fixing the Grade pay of the petitioners at Rs.5400 with notional effect from 01.01.2006 and monetary benefit from 01.01.2011.

For Petitioner : Mrs.Nalini Chidambaram
Senior Counsel

For Respondents : Dr.T.Seenivasan
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the proceedings dated 22.07.2013 in Na.Ka.No.76/2013 passed by the fourth respondent, thereby ordered to recover the excess payment and also revise the scale of pay.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioners were working as Vocational Instructors. By G.O.Ms.No.1719, Education dated 14.09.1978, it was ordered to fill the vocational courses in Higher Secondary Schools from the year 1978-79. Accordingly, the petitioner had joined as Part Time Vocational Instructor with consolidated pay. They were given time scale of pay by



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G.O.Ms.No.712, Education (HS) Department, dated 28.05.1990. Their services were regularised and the fully qualified double part time vocational instructors over a period of two years. Those sanction was accorded and they were observed as fully qualified double part time vocational instructor with effect from 01.04.1990. As per Fifth Pay Commission, their scale of pay was fixed at Rs.5500-175-9000 as scale of pay for BT Assistant. The same scale of pay was fixed for Vocational Instructor Grade I in the Higher Secondary School. As per G.O.Ms.No.162, Finance (Pay Cell) Department, dated 13.04.1998, the revision of scale of pay and allowances were ordered.

4. The said G.O. is very clear that for the posts having no promotional avenues the selection grade and special grade shall be allowed. The existing procedure for movement to Selection Grade / Special Grade and fixation of pay shall continue to be adopted in future in the revised scale also. Accordingly, the scale of pay was fixed as Rs.6500-200-10500. By virtue of G.O.Ms.No.234, dated 01.06.2009, the Sixth Pay Commission was constituted. Accordingly, the revised scale of pay was introduced with effect from 01.01.2006. The pay band with grade pay was introduced and pay of Rs.9300-34800 + grade pay



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Rs.4400/- was fixed for BT Assistants. However, the Vocational Instructors scale of pay was not fixed and in order to rectify the same, a One Man Commission was constituted. As per the report submitted by the One Man Commission, the Vocational Instructors seek parity of pay with P.G.Assistants but Vocational Instructors have been placed on par with B.T.Assistants.

5. The Principal Secretary to Government, by its letter dated 08.11.2010, stated the scale of pay was revised based on the recommendation of the One Man Commission. Accordingly, the Selection Grade and Special Grade pay band of Rs.9300-34800 with grade pay of Rs.4600/- for ordinary grade and Rs.15600-39100 with grade pay of Rs.5400/- for selection grade was fixed as scale of pay. Accordingly, from 01.01.2006 onwards, the petitioners were awarded the Selection Grade Vocational Instructions pay. But the grade pay of Rs.5400/- is being denied to the petitioners on account of the fact that G.O.Ms.No.23, dated 12.01.2011 does not refer to Vocational Instructors. It is seen that the BT Assistants Vocational Instructors have no promotional avenues. Therefore, they are entitled to have selection grade pay of Rs.5400/-



6. A perusal of the counter filed by the respondents reveals that as per G.O.Ms.No.23, Finance (Pay Cell) Department, dated 12.01.2011, there is no mention about the applicability to the Vocational Instructors, since they were earlier treated on par with BT Assistants, the grade pay revised in G.O.Ms.No.23, Finance (Pay Cell) Department, dated 12.01.2011 was made applicable to the Vocational Instructors also. Accordingly, the enhanced scale of pay of Rs.4400 to Rs.4600 with effect from 01.01.2006, notionally and monetary benefit from 01.01.2011.

7. As rightly pointed out by the learned Senior Counsel appearing for the petitioners the Vocational Instructors have no promotional avenues and hence they are entitled to grade pay of Rs.5400/-. The teachers in the Selection Grade / Special Grade are in the pay band of Rs.9300-34800 with grade pay of Rs.4400 and Rs.15600-39100+5400 as per the letter issued by the Principal Secretary dated 08.11.2010. Accordingly, the petitioners, being the Vocational Instructors, were awarded selection grade and they are entitled for grade pay of Rs.5400/- since they have no promotional avenues. That apart the petitioners were not given any opportunity by issuance of any show cause notice before passing the impugned order. Therefore, it is clear violation of principles of natural justice.



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8. In view of the above, the impugned proceedings dated 22.07.2013 in Na.Ka.No.76/13 passed by the fourth respondent is hereby quashed and the Writ Petition stands allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Index:Yes/No
Internet:Yes/No
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To

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