



W.P.(MD)No.10389 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:30.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.10389 of 2020

W.M.P(MD).Nos.9209 and 9211 of 2020

K.Anbarasu

... Petitioner

Vs.

- 1.The Principal Secretary to the Government,
Finance Department,
Fort St.George,
Chennai-9.
- 2.The Principal Secretary to the Government,
School Education Department,
Fort St.George,
Chennai-9.
- 3.The Director of School Education,
DPI Compound,
College Road,
Chennai-600 006.
- 4.The Joint Director (Vocational),
Directorate of School Education,
DPI Compound, College Road,
Chennai-600 006.
- 5.The Accountant General (A&E),
Office of the Accountant General,



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(A&E), Tamil Nadu,
361, Anna Salai,
Teynampet,
Chennai-600 018.

6.The Chief Educational Officer,
O/o.The Chief Educational Officer,
Trichy District.

7.The District Educational Officer,
O/o.The District Educational Officer,
Trichy,
Trichy District.

8.The Headmaster,
Bishop Heber Higher Secondary School,
Teppakulam,
Trichy-620 002.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the impugned order in No.AG(A&E)/PEN P23/12324097/2/R2321691 dated 09.08.2019 on the file of the fifth respondent and the impugned order in Letter No.2021/SE7(1)/2020-1, dated 17.02.2020 on the file of the second respondent and the impugned order in Na.Ka.No.3024/V1/E1/2020 dated 28.02.2020 on the file of the third respondent and the consequential impugned order in R.C.No. 1620/A2/2020 on the file of the eighth respondent dated 28.05.2020 as illegal insofar as denying the benefit of the additional fitment table to the Vocational Instructor and consequently for a direction, directing the respondents to revise the pensionary benefits of the petitioner by way of providing the benefit of additional fitment table and further refund the sum of Rs.2,94,092/- (Rupees Two Lakhs Ninety Four Thousand and Ninety Two only) to the petitioner which was recovered from the earned



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leave surrender and unearned leave on private affairs within the time period stipulated by this Court.

For Petitioner	: Mr.T.Lajapathi Roy Senior Counsel for Mr.S.Rajasekar
For Respondents	: Mr.S.Saji Bino Special Government Pleader for RR1 to 4, 6 and 7 Ms.S.Mahalakshmi for R5

ORDER

This Writ Petition has been filed to call for the records pertaining to the impugned order in No.AG(A&E)/PEN P23/12324097/2/R2321691 dated 09.08.2019 passed by the fifth respondent, the impugned order in Letter No.2021/SE7(1)/2020-1 dated 17.02.2020 issued by the second respondent, the impugned order in Na.Ka.No.3024/V1/E1/2020 dated 28.02.2020 issued by the third respondent and the consequential impugned order in R.C.No.1620/A2/2020 passed by the eighth respondent dated 28.05.2020, quash the same as illegal insofar as denying the benefit of the additional fitment table to the Vocational Instructor and direct the respondents to revise the pensionary benefits of



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the petitioner by way of providing the benefit of additional fitment table and refund a sum of Rs.2,94,092/- (Rupees Two Lakhs Ninety Four Thousand and Ninety Two only) to the petitioner which was recovered from the earned leave surrender and unearned leave on private affairs within the time stipulated by this Court.

2. The case of the petitioner is that the petitioner was initially appointed as Vocational Instructor and his service was regularised in the post of Vocational Instructor on 16.10.1992. At the time of implementation of Sixth Pay Commission, his basic pay was revised as per the Additional Fitment Table No.15 and Rules 4(i) and 4(iii) of the Tamil Nadu Revised Scale of Pay Rules, 2009. While so, the second respondent has issued a Letter dated 17.02.2020, without considering the fact that several similarly placed employees like the petitioner have already been getting the benefit of additional fitment table, stating that the benefit is not applicable to the Vocational Instructors. During the time of his retirement, the fifth respondent has issued the impugned order dated 09.08.2019 stating that the additional fitment table is not



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admissible. Based on the said impugned order, the eight respondent has issued the impugned order of recovery of a sum of Rs.2,94,092/- (Rupees Two Lakhs Ninety Four Thousand Ninety Two only). Challenging the same, the present Writ Petition has been filed.

3. The learned Senior Counsel appearing for the petitioner would submit that the petitioner is entitled to get the benefit of Additional Fitment Table. However, the respondents have held that the Additional Fitment benefit is not applicable to the petitioner and the Additional Fitment benefit is only applicable to the persons mentioned in G.O.Ms.Nos.254 to 340, Finance (PC) Department, dated 26.08.2010, which is untenable and he is entitled for additional fitment benefit.

4. The learned Special Government Pleader appearing for the respondents would submit that the petitioner is a Vocational Instructor and he was brought into time scale of pay in the year 1992. As per the Sixth Pay Commission, his pay was revised as Rs.9300-34800 + 4600 GP. The petitioner was awarded selection grade in the year 2002, at



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Rs.15,600-39,100+Grade pay of Rs.5,400/-. Further, he was awarded Special Grade Pay of Rs.15600-39100+ Grade pay of Rs.5,700/-.

Admittedly, vide the Government letter No.63305 Pay Cell dated 08.11.2010, the revised Selection Grade scale of pay was introduced to some categories. However, the Government has stated in Letter No. 18187/PC/2012-1, Finance Department dated 18.04.2012, that the Additional Fitment Table annexed to the said Government Letter is applicable only to the posts for which ordinary grade scale of pay/pay band has been revised. For the posts of Vocational Instructors, the ordinary scale of pay/pay band has been revised from Rs.9,300-34800 with Grade pay of Rs.4400/- to Rs.9300-34800 with grade pay of Rs. 4600/- which is within the same pay band and not to another pay band. Hence, the Additional fitment table is not applicable to the petitioner and he is not an aggrieved person as per the sixth pay Commission. The persons mentioned in G.O.(Ms).Nos.254 to 340 dated 26.08.2010, are the aggrieved persons, since the Sixth Pay Commission is denied to them and they made representations to issue the benefit of Additional fitment table by providing monetary benefits and thereby, the Additional fitment table



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was issued to them and the same is not applicable to the petitioner.

Hence, he prays for dismissal of the present writ petition.

5. Heard the learned Senior counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 to 4, 6 and 7, and the learned counsel appearing for the fifth respondent.

6. The issue arising in the present writ petition is as to whether the petitioner is entitled for additional fitment table introduced in G.O.Ms.No.254 to 340, Finance (PC) Department, dated 26.08.2010. Admittedly, the petitioner entered into service prior to 1992 and his service was regularised in the year 1992. Thereafter, he was awarded selection grade in the 2002 and special grade in the year 2012. He got retired from service. Prior to retirement, the benefit of additional Fitment table was given to the petitioner and the same was sought to be recovered at the time of retirement. Thereby, the present Writ Petition has been filed.



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7. The grievance of the petitioner is that he is entitled for additional fitment table as per the Rules 4(i) and 4(iii) of the Tamil Nadu Pay Revised Scale Rules. Admittedly, the Tamil Nadu Revised Scale of Pay, 2009 was issued vide G.O.(Ms).No.234, Finance (Pay Cell) Department, dated 01.06.2009. The Government of Tamil Nadu constituted an Official Committee to examine and make necessary recommendations for revision of scales of pay and allowances of State Government employees and Teachers including employees of Local Bodies based on the decisions of the Central Government on the recommendations of the Sixth Central Pay Commission. The Committee was also requested to examine the decision of the Government of India on the revision of pension, family pension, retirement benefits and make necessary recommendations. The Official Committee has submitted its report to the Government on 27.05.2009. The Government, while implementing the Central Pay scales to the employees of the State Government, have decided to adopt the revised pay scales on “pay scale to pay scale” basis. Accordingly, the existing 28 standard pay scales shall



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be revised as indicated in the Schedule—I to the Revised Scales of Pay Rules. Further, the recommendation of the Sixth Pay Commission has been implemented to the employees of the Central Government with effect from 01.01.2006 and the Sixth Central Pay Commission has recommended the revised pay structure under- 4 Pay Bands with 20 Grade Pays. Though that revision of pay scale as recommended in G.O.(Ms).No.234 dated 01.06.2009, is not applicable to the petitioner, the grievance of the petitioner is that the revision scale of pay was not extended to the petitioners. Thereby, the present Writ Petition has been filed. However, for fixation of pay in the revised pay structure of employees appointed as fresh recruits on or after 01.01.2006, the entry level pay in the pay band at which the pay of direct recruits to a particular post carrying a specific grade pay shall be fixed on or after 1—1—2006. However, the petitioner was appointed prior to 01.01.2006 as Vocational Instructor and he was brought under regular establishment in the year 1992. He was granted selection grade in the year 2002 and special grade in the year 2012, whereas the persons, who entered into service on or after 01.01.2006, alone are entitled for revision of pay



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scales and the persons who were appointed prior to that, if the Sixth Pay Commission has been denied to them, are entitled to the additional Fitment table. However, in the present case, the petitioner is not an aggrieved person by the Sixth Pay Commission. Scale of pay was revised prior to acquiring of selection grade and special grade. Hence, the benefit granted to the additional fitment table was not available to the petitioners.

8. Accordingly, this Writ Petition is dismissed. No costs.
Connected miscellaneous petitions are closed.

30.01.2023

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NCC:Yes/No

Index:Yes/No

Internet:Yes/No

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Finance Department,
Fort St.George,

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M.DHANDAPANI,J.

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