



W.P.(MD)No.14043 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:30.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

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- 1.M.Rajaram
- 2.T.Irydayaraj
- 3.S.Sadhasivam
- 4.N.Srinivasan
- 5.G.Kalavathy
- 6.C.R.Maheswari
- 7.N.Indhumathi
- 8.G.Selvaraj
- 9.K.M.Lakshmanan
- 10.R.Nedunchezhiyan
- 11.K.Hariharan
- 12.M.Thirunavukkarasu
- 13.K.Ayyakkannu
- 14.M.Sooriyamoorthy
- 15.K.Vaidhyanathan
- 16.K.Sivakumar
- 17.M.Ganesan
- 18.K.Selvakumar
- 19.G.Masilamani
- 20.K.Thangamani
- 21.P.Marichelvam
- 22.P.Karuppiah
- 23.E.Marimuthu
- 24.V.Kamalam



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- 25.K.Bageerathy
- 26.S.Thenmozhi
- 27.R.Srimathisanthi
- 28.N.Rani
- 29.G.Mathiazagan
- 30.A.Muruganandan
- 31.A.Karuppiah
- 32.M.Esakki Muthu
- 33.V.Krishnan
- 34.A.Sekar
- 35.P.BarathiDhasan
- 36.R.Indirajith
- 37.S.Natesan
- 38.A.M.Meganathan
- 39.M.Ravi
- 40.M.Raja
- 41.K.Prakasan
- 42.K.S.Sundara Raman
- 43.R.S.Sekaran
- 44.K.Shanmugam
- 45.R.K.ThiruMayavan
- 46.P.Thirumal Subramaniam
- 47.D.Venu
- 48.R.Anichristhi
- 49.K.Pareetha Begum
- 50.H.V.Shanthi
- 51.G.Andal
- 52.M.Ramachandran
- 53.S.Valarmathi
- 54.C.Anbukarasi
- 55.K.Vijayakumar
- 56.P.Balakrishnan
- 57.R.Utthaman
- 58.P.Arutchelvan
- 59.M.Krishnamoorthy
- 60.R.Santharaam



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61.R.Rajasekaran

... Petitioners

Vs.

- 1.The State of Tamil Nadu,
Represented by its Principal Secretary to the Government,
Finance Department,
Fort St.George,
Chennai-600 009.
- 2.The Special Secretary to the Government,
Finance (CMPC) Department,
Secretariat,
Chennai-600 009.
- 3.The Principal Secretary to the Government,
School Education Department,
Fort St.George,
Chennai-9.
- 4.The Director of School Education,
DPI Compound,
College Road,
Chennai-600 006.
- 5.The Principal Accountant General,
Office of the Accountant General (Accounts and Entitlements),
361, Anna Salai,
Teynampet,
Chennai-600 018.
- 6.The Joint Director (Vocational),
Directorate of School Education,
DPI Compound, College Road,
Chennai-600 006.

... Respondents



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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 Letter No.41275/Fin(CMPC)/2020-1 dated 02.02.2021 on the file of the second respondent and quash the same as illegal and consequently, for a direction directing the respondents 1 to 3 to re-fix the scale of pay and pension of the petitioners along with consequential monetary benefits by way of granting the benefit of Additional Fitment Table-19 and by applying Rules 4(i) and (iii) of the Tamil Nadu Revised Scale of Pay Rules, 2009, within the time period stipulated by this Court.

For Petitioner	: Mr.T.Lajapathi Roy Senior counsel for S.Rajasekar
For Respondents	: Mr.S.Saji Bino Special Government Pleader for RR1 to 4 and 6 Mr.P.Gunasekaran for R5

ORDER

This Writ Petition has been filed to call for the records pertaining to the impugned order in Letter No.41275/Fin(CMPC)/2020-1 dated 02.02.2021 issued by the second respondent, quash the same as illegal



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and direct the respondents 1 to 3 to re-fix the scale of pay and pension of the petitioners along with consequential monetary benefits by way of granting the benefit of Additional Fitment Table-19 and by applying Rules 4(i) and (iii) of the Tamil Nadu Revised Scale of Pay Rules, 2009, within the time stipulated by this Court.

2. The case of the petitioners is that the petitioners were initially appointed as Part Time Vocational Instructors and subsequently, they were absorbed as Full Time Vocational Instructors. The Joint Director of School Education has regularised their services in the post of Vocational Instructor Grade-I and they got retired from service. The petitioners have completed 10 years of service in the post of Vocational Instructor and they were awarded Selection Grade scale of pay in the said post during the course of 6th Pay Commission which was introduced with effect from 01.01.1996. While implementing the Higher Secondary Vocational Instructor's Selection Grade vide G.O.No.36, dated 12.09.2018, the selection grade pay of the petitioners was improperly fixed as per Rule 4(1)(ii) of the Tamil Nadu Revised Scale of Pay Rules, 2009, [hereinafter



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referred to as “Rules”] at Rs.15600/-. But the proper fixation of their selection grade pay is only as per Rule 4(1)(iii) of the Rules, which gives proper weightage for their service seniority and should be fixed at Rs.16,500/- in the scale of pay of Rs.15,600-31900. Hence, the present erroneous fixation of their selection grade pay at the minimum of Rs.15,600/- is sought to be re-fixed at Rs.16,500/- as per Rule 4(1)(iii).

3. The Government issued additional fitment tables annexed in the Finance (Pay Cell) Department letter No.51082 dated 15.09.2010 for some categories of employees whose pay scales have been revised in the One Man Commission. Fitment Table No.19 is dealt with, how to fix the revised pay scale of Rs.15600-39100 with that of pre-revised scale of Rs.6500-200-10500 being the selection grade pay of the petitioners. It was issued in the year 2010, but the Vocational Instructor's Selection Grade was granted vide G.O.306, dated 12.09.2018, and that too, after the intervention of this Court and the One Man Commission. Hence, this Government Order is not included in the above said finance letter. In reply to the letter of the Accountant General, Tamil Nadu, vide letter,



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dated 02.08.2021, the first respondent vide letter, dated 02.02.2021 which is under challenge, has stated that there is no Government Order in respect of Vocational Instructors issued by One Man Commission and hence the said additional fitment table No.19 issued vide finance letter No.51082 dated 15.09.2010 is not applicable to the petitioners. It is the contention of the petitioners that the benefit of the said Rules cannot be denied merely because no specific Government Order has been issued to the Vocational Teachers by following Table No.19 which is completely based on Rule 4(1)(iii) of the Rules. Hence, the impugned letter issued by the second respondent is contrary to the Rule 4(1)(iii) of the Rules and is liable to be interfered with.

4. The learned Senior Counsel appearing for the petitioners would submit that the petitioners are entitled for re-fixation of their scales of pay by providing Additional Fitment Table No.19 in terms of Rules 4(1)(i) and 4(1)(iii) and in terms of Kolanjiappan case. However, the respondents have held that the Additional Fitment benefit is not applicable to the petitioners and the Additional Fitment benefit is only



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applicable to the persons mentioned in G.O.(Ms).Nos.254 to 340, Finance (PC) Department, dated 26.08.2010, which is untenable and the petitioners are also entitled to get the additional fitment benefit.

5. The learned Special Government Pleader appearing for the respondents would submit that the petitioners are Vocational Instructors and they were brought into time scale of pay. At the time of introduction of Sixth Pay Commission, their pay was revised and they were given ordinary scale of pay at the time of regularization of their service at Rs.9300-34800 + 4600 GP. The petitioners were awarded selection grade pay at Rs.15,600-39,100 + Grade pay of Rs.5,400/- and were awarded special pay of Rs.15600-39100+ Grade pay of Rs.5,700/-. Admittedly, the Government has issued additional fitment table annexed in the Finance (Pay Cell) Department in Letter No.51082 Finance (CMPC) Department, dated 15.09.2010. 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



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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 petitioners and they are not the aggrieved persons as per the Sixth Pay Commission. The persons mentioned in G.O.(Ms).Nos.254 to 340, Finance (PC) Department, 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 was issued to them and the same is not applicable to the petitioners. Hence, he prays for dismissal of the present writ petition.

6. Heard the learned counsel appearing for the petitioners, the learned Special Government Pleader appearing for the respondents 1 to 4 and 6 and the learned counsel appearing for the fifth respondent.



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7. The issue arising in the present writ petition is as to whether the petitioners are entitled for additional fitment table introduced in G.O.Ms.Nos.254 to 340, Finance (PC) Department, dated 26.08.2010. Admittedly, the petitioners entered into service prior to 1992 and their services were regularised in the year 1992. Thereafter, they were awarded selection grade and special grade. They got retired from service in the year 2018 and 2020 respectively. Prior to retirement, the benefit of Additional Fitment Table was given to the petitioners. However, at the time of retirement, the same was sought to be recovered. Thereby, the present Writ Petition has been filed.

8. The grievance of the petitioners is that they are entitled for Additional Fitment Table as per the Rules 4(i) and 4(iii). Admittedly, the Tamil Nadu Revised Scale of Pay Rules, 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



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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 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 petitioners, the grievance of the petitioners is that the revision of scale of pay was not extended to the petitioners. Thereby, the present



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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 petitioners were appointed prior to 01.01.2006. They were initially appointed as Part Time Vocational Instructors, were brought under regular establishment in the year 1992 and they were 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 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 petitioners are not the aggrieved persons by the Sixth Pay Commission. Their scale of pay was revised prior to acquiring of Selection Grade and Special Grade. Hence, the benefit granted in the Additional Fitment Table was not applicable to the petitioners.



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9. Accordingly, this Writ Petition is dismissed. No costs.

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NCC:Yes/No

Index:Yes/No

Internet:Yes/No

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M.DHANDAPANI,J.

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