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W.P.(MD)No.23785 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.23785 of 2016

C.Athithan

... Petitioner

vs.

The Accountant General (A&E),
Office of the PR.Accountant General
(A&E) Tamilnadu,
361, Anna Salai, Teynampet,
Chennai 600 018.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the respondent herein in his proceedings in No. PrAG(A&E)/Pen- 25/II/12510451 dated 24.06.2015 and to quash the same and further, to direct the respondent herein to disburse the petitioner's pension as per the correct revised basic pay in consonance with Rule 4(1)(iii) of the Tamil Nadu Revised Scales of Pay Rules, 2009.



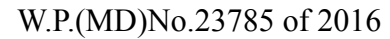
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For Petitioner : Mr.S.A.Ganapathyraman
For Respondent : Mr.P.Gunasekaran

ORDER

This writ petition is filed for writ of Certiorarified Mandamus, to quash the impugned proceedings dated 24.06.2015 and to direct the respondent herein to disburse the petitioner's pension as per the correct revised basic pay in consonance with Rule 4(1)(iii) of the Tamil Nadu Revised Scales of Pay Rules, 2009.

2. The petitioner was appointed as Junior Assistant in Sivanthipatti Nadar Girls High School, Mamsapuram, Srivilliputhur Taluk, Virudhunagar District on 01.03.1984. Thereafter, he got Selection Grade on 01.06.1994 and Special Grade on 01.06.2004 and thereafter retired from service on attaining superannuation on 31.05.2011. The contention of the petitioner is that the Government has revised the pay scale through G.O.Ms.No.234, dated 01.06.2009. Prior to the issuance of the said



3. The contention of the respondents is that the Government was paying scale of pay to the Government employees in a different method in the 6th Pay Commission through G.O.Ms.No.234, dated 01.06.2009. While shifting to different method of payment, several pay anomalies were there. The Government employees agitated and submitted several representations to the Government. The G.O.Ms.No.234, dated 01.06.2009, was beneficial to certain set of employees. However, for certain set of employees instead of increasing the scale of pay it had decreased the scale of pay and they were receiving lesser salary.



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Therefore, the issue was referred to “One Man Commission” and the Government issued several G.O.s in order to address each and every issue. After the report was submitted the Government issued a clarification through letter, dated 15.09.2010 and has issued additional fitment tables 1 to 17. Now, the petitioner is claiming that additional fitment table is applicable to the petitioner.

4. The contention of the respondent is that the Junior Assistant post was not affected by the revision under G.O.Ms.No.234, dated 01.06.2009. Therefore, this clarification which was issued is applicable to other posts in various departments and it is not applicable to the Junior Assistant working in Education Department, for which the respondent relied on the said clarification, dated 15.09.2010. The relevant portion of the clarification is extracted hereunder:

“The One Man Commission constituted in the Government Order second cited to examine the anomalies, if any, arisen consequent on the implementation of the recommendations of the



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Official Committee 2009 has recommended for revision of scales of pay of a number of posts in various departments. Based on these recommendations, orders were issued in the Government Orders third cited revising the scales of pay of certain categories in various departments.”

5. On perusing the said clarification, it is seen that the respondent has specifically stated that the revision of scale of pay for number of posts in various Departments were granted lesser salary. Therefore, in order to address the same, this clarification was issued. Therefore, when the petitioner's post is not coming within the purview of the revision. Then, the petitioner cannot claim additional fitment table.

6. Therefore, this Court is not inclined to entertain this writ petition. The petitioner was granted additional fitment table but no salary was disbursed based on the additional fitment table. Immediately, the respondent realized the mistake and rectified the mistake and the correct fitment table was fixed. Hence, the petitioner was not paid any



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excess amount. Therefore, there is no question of recovery. The respondent has granted the correct fitment table therefore, the petitioner is not entitled to any relief. Hence, the writ petition is dismissed. No costs.

Index : Yes / No
Internet : Yes
NCC : Yes / No

30.03.2023

Tmg

To

The Commissioner for Employees'
Compensation,
(The Deputy Commissioner of Labour),
Madurai.



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S.SRIMATHY, J

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