



W.P.No.2253 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P. Nos.676, 680 and 2253 of 2020

and

W.M.P.Nos.804, 808, 2630 & 2632 of 2020

1. R.Anandan
2. S.Meera Shekar
3. M.Manimehalai
4. V.R.Malarvizhi
5. V.C.Indhumathy
6. P.Ramesh
7. P.Raja Kumari
8. A.Ramasamy
9. P.Mahendran
10. N.Selvaraj
11. T.Balakrishnan

... Petitioners in W.P.No.676 of 2020

B.Venkatachalapathy

... Petitioner in W.P.No.680 of 2020

- 1 A.Uma Maheswari
- 2 P.Balasubramanian
- 3 K. Balamurugan
- 4 H. Samuvel Raj
- 5 V.Jesudoss Charles
- 6 K. Seenirajan
- 7 C.Muniyandi

...Petitioners in W.P.No.2253 of 2020

Vs.



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- 1 Government of Tamil Nadu
Rep. by its Secretary,
Higher Education Department,
Fort St. George, Chennai 600 009.
- 2 The Joint Director of School Education
(Vocational)
College Road Chennai-600 096. ... Respondents in all W.Ps.

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 2nd Respondent proceeding in Na.Ka.No. 098842 / V1 / E3 / 2014, dated 25.09.2019 and Na.Ka.No.51980/V1/E3/2018, dated 24.09.2019, quash the same and direct the Respondents to fix the scale of pay of the petitioners at Rs.6500/- from the date of appointment and at Pay Band Rs.15,600/- Grade Pay Rs. 5400/- with effect from 01.01.2006 and confer all the consequential benefits.

in all W.Ps.

For Petitioners : Mr.P.Ganesan

For Respondents : Mr.Yogesh Kannadasan,
Special Government Pleader

COMMON ORDER

The petitioners who are working as vocational instructors in the Higher secondary schools, have secured the professional qualification of



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B.Sc., Agriculture. As per G.O.Ms.No.840 Finance (Pay) Commission dated 31.7.1990, the persons who are holding B.Sc., Agriculture have been given with an enhancement in scale of pay band of 2,000- 3500 from 1160-1950. Though similarly placed persons have been given with the said benefit as per the said G.O, the petitioners were not given with the enhanced scale of pay. In this regard, the petitioners made representations and the same were rejected. Hence, this Writ Petition has been filed seeking to set aside the impugned proceedings issued by the 2nd Respondent, dated 25.09.2019 and direct the respondents to extend the benefit of G.O.Ms.No.840 Finance (Pay) Commission dated 31.7.1990 to the petitioners.

2. Mr.P.Ganesan, learned counsel for the petitioners placed reliance on the Judgment of the High Court, dated ***W.P.No.17169 of 2015, dated 14.09.2017*** in ***K.Kanagaraj and 2 ors. Vrs., the Government of Tamil Nadu*** in support of his case. The said petition was allowed by this Court wherein this Court has observed as follows:

“5.The similar issue was already adjudicated by this Court in the case of G.Vasimalai -Vs- State of Tamil Nadu in



W.P (M.D) No.5766 of 2008. The learned Single Judge passed an order on **05.03.2012** is extracted here under:

“The issue involved in this case is as to whether the petitioner is entitled to get the salary in accordance with G.O.Ms.No.840 Finance (Pay) Commission dated 31.7.1990 when he is holding B.Sc (Agri) degree. The learned Judge has categorically found in the above referred order that when the petitioner is also doing the same work as that of the other Vocational Instructors, there is no justification to deny the scale of pay applicable to Vocational Instructors. The learned Judge has also categorically found that there cannot be two sets of Vocational Instructors drawing the different scale of pay and doing the similar work. The learned Judge has granted relief in the said Writ Petition to fix the scale of pay as Rs.2000-3500. Accordingly, in this case also the petitioner is entitled to relief of re-fixation of the scale of pay in terms of G.O.Ms.No.840 (Finance (Pay Commission) dated 31.7.1990. Therefore, the reasons assigned in the impugned order are not justifiable and the same is unsustainable in view of the findings given by this Court in other Writ Petition in W.P.No.32121 of 2006 dated 5.1.2010. Accordingly, the impugned order is set aside and the Writ Petition is allowed and the respondent



is directed to re-fix the scale of pay of the petitioner in terms of G.O.Ms.No.840 (Finance (Pay Commission) dated 31.7.1990 from the date of regularization namely, 16.10.1992 and pass orders and to pay monetary benefits within a period of eight weeks from the date of receipt of copy of this order. No costs.”

*6.The state preferred **W.A.(MD) No.1344 of 2013** against the order cited supra and the **Hon'ble Division Bench** considered the issues elaborately and delivered a Judgment on **14.08.2014** and the relevant paragraphs are extracted here under:*

“21.Keeping in mind the ratio laid down in the aforesaid decisions of the Honourable Apex Court as well as this Court, we have no hesitation to conclude that the impugned order herein passed by the learned Judge (K.Ravichandra Baabu,J.), in W.P.(MD) No.5766 of 2008, dated 05.03.2012, by following the order passed by the learned Judge (D.Hariparanthaman,J.) in W.P.No.32121 of 2006, dated 05.01.2010, is tenable.

22.Further, on a deep scrutiny of the materials available on record, we find that there is no need to refer the matter to a Larger Bench, since there are no conflict verdicts on the issue on hand and it cannot be said that the order passed by the Division Bench of this



Court (EDRJ & RPSJ) is a non-speaking order, for the reason that the Division Bench of this Court had considered the issue and upheld the order passed by the learned Judge (D.Hariparanthaman,J.) in W.P.No.32121 of 2006. It is also not correct to state that the Honourable Supreme Court simply dismissed the Special Leave Petition without dealing with the correctness of the matters.

23.In such circumstances, we find that the order passed by the learned Judge (K.Ravichandra Baabu, J) in W.P.(MD) No.5766 of 2008, dated 05.03.2012, by following the earlier order passed by the learned Judge (D.Hariparanthaman, J), in W.P.No.32121 of 2006, dated 05.01.2010, which was ultimately confirmed by the Honourable Apex Court, is in accordance with law and no interference at the hands of this Court is warranted. Accordingly, we find no cause or reason to differ with the same.

24.In fine, the writ appeal stands dismissed. Consequently, the connected miscellaneous petitions is dismissed. No costs.”

7.The State preferred SLP C No.237 of 2015 before the Apex Court and the Hon'ble Supreme Court of India dismissed the Special Leave Petition on 07.09.2015. Thus, the matter



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reached finality and the learned counsel for the writ petitioner further brought to the notice of this Court that the order passed in the above cases were implemented by the respondent State by issuing G.O.(3D) No.91, School Education Department dated 26.05.2016. Thus, this Court is of the opinion that the writ petitioners in this writ petition is also entitled to get the same benefit of equal time scale of pay in accordance with the G.O.Ms.No.840, Finance (Pay Commission) dated 31.07.1990.

3. Challenging the above Writ Petition, a Writ appeal has been preferred by the Government of Tamil Nadu in W.A.No.206 of 2019 and the same was dismissed by this Court on 24.01.2019, confirming the orders passed by the learned Single Judge. The relevant paragraph is extracted hereunder:

“18.We still have to deal with the order dated 21.01.2019 made in W.A.No. 1040 of 2019 (The Government of Tamil Nadu represented by its Principal Secretary, School Educational Department Vs Kalarani & others). It is true that the case of the respondents therein is similar to that of the respondents herein. It also appears that the order dated 21.01.2019 in W.A.No.1040 of 2019 had attained finality. Yet, we are of the view that the present writ appeal cannot be governed by the order dated



21.01.2019 for more than one reason. The Division Bench which dismissed W.A.No.1040 S of 2019 was under the impression that the vocational instructors (Agriculture) and vocational instructors in other streams though discharge identical duties, were placed in different time scales. It is not so. A mere look at G.O.Ms.No.6 dated 04.01.2000 is enough to dispel the same. The vocational instructors whether for Home Science, Commerce and Business and Agricultural, Engineering and Technology, Health or Photography and Music have been placed in the very same time scale of pay of Rs.5500-175 9000. Secondly, the Division Bench took the view that the decisions rendered in G.Narayansamy and Vasimalai should be followed. We have already held that vocational instructors appointed under G.O.Ms.No.129, dated 18.05.1999 r/w G.O.Ms.No.6, dated 04.01.2000 constitute a separate class distinct from the one to which G.Narayanasamy and Vasimalai belonged.”

4. Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the Respondents submitted that the petitioners are not similarly placed persons because they have been appointed subsequent to G.O.Ms.No.6, School Education (VE) Department, dated 04.01.2000 and hence, the petitioner will not come under the category for which the higher



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scale of pay was granted as per G.O.Ms.No.840 Finance (Pay) Commission dated 31.7.1990 and there is no Adhoc Rules at the relevant point of time.

Thereafter, as per G.O.Ms.No.6, School Education (VE) Department, dated 04.01.2000, Adhoc rules were framed. Having accepted the terms of the appointment and also the pay scale which has been fixed subsequent to G.O.Ms.No.6, School Education (VE) Department, dated 04.01.2000, the petitioner now cannot make a different claim.

5. The learned counsel for the petitioners submitted that the G.O.Ms.No.6, School Education (VE) Department, dated 04.01.2000 was challenged in W.P.No.33959 of 2014 and the same was quashed. No appeal was filed as against the same. Hence, the petitioner's case has to be considered only in terms of G.O.Ms.No.840 Finance (Pay) Commission dated 31.7.1990 and not G.O.Ms.No.6, School Education (VE) Department, dated 04.01.2000.

6. The core contention of the respondents is that the petitioner has been appointed subsequent to G.O.Ms.No.6, School Education (VE)



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Department, dated 04.01.2000 and hence the petitioner cannot claim benefits on par with the similarly placed persons who have joined prior to 04.01.2000. It is true that as per G.O.Ms.No.6, School Education (VE) Department, dated 04.01.2000 adhoc rules have been framed and the same was challenged by the set of persons by way of filing Writ Petition in W.P.No.33959 of 2014 and the same was allowed. As such there is no Adhoc Rules as claimed by the learned counsel for the petitioners. Hence, the petitioner cannot be discriminated due to the reasons that he was appointed subsequent to G.O.Ms.No.6, School Education (VE) Department, dated 04.01.2000 and the order passed in W.P.No.33959 of 2014, was not challenged and the same had attained its finality. The respondents failed to distinguish the status of the petitioners from that of other person in whose favour G.O (1D) No.327, School Education (SE2(2) Department, dated 18.11.2013 has been passed, sanctioning the pay as prescribed under G.O.Ms.No.840 Finance (Pay) Commission dated 31.7.1990. Hence, the petitioners are also eligible to get the benefit under G.O.Ms.No.840 Finance (Pay) Commission dated 31.7.1990.



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7. With the above direction, the Writ Petitions are allowed. The orders passed by the 2nd respondent in Na.Ka.No. 098842 / V1 / E3 / 2014, dated 25.09.2019 and Na.Ka.No.51980/V1/E3/2018, dated 24.09.2019 are quashed. The respondents are directed to pass favourable orders in the light of G.O.Ms.No.840 Finance (Pay) Commission dated 31.7.1990 within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

23.01.2024

Index: Yes / No
Speaking order / Non-speaking order
vum

To:

- 1 The Secretary,
Higher Education Department,
Fort St. George, Chennai 600 009.
- 2 The Joint Director of School Education
(Vocational)
College Road Chennai-600 096.



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R.N.MANJULA ,J.

vum

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