



W.P.No.1780 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 10.07.2024

Pronounced on : 25.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.1780 of 2023 and

WMP.No.1892 of 2023

Tamilnadu Post Graduate Teachers Association

No.9/4, Dr.Radhakrishnan Nagar,

Abdullah Street, Choolaimedu,

Chennai 600 094

Rep. By State Informative and Communicative Secretary,

M.Magendiran

... Petitioner

Vs.

1.The State of Tamilnadu,

Rep. By its Principal Secretary to Government,

Finance Department,

Fort St.George,

Secretariat,

Chennai 600 009

2.The State of Tamilnadu,

Rep. By its Principal Secretary to Government,

Personnel and Administrative Reforms Department,

Fort St.George, Secretariat,

Chennai 600 009

3.The State of Tamilnadu,

Rep. By its Principal Secretary to Government,

School Education Department,

Fort St.George, Secretariat,

Chennai 600 009

4.The Commissioner,



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Directorate of School Education,
DPI Campus, College Road,
Chennai 600 006

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 4th respondent in Na.Ka. No.04888/ W2/ E2/ 2021 dated 18.11.2021 served on the petitioner along with letter issued by the 4th respondent in Na.Ka.No.04888/ W2/ E2/ 2021 dated 15.12.2022 and to quash the same and consequently directing the 3rd respondent the competent authority to pass orders to revise and enhance the scale of pay to the post of P.G. Assistant in Tamil Nadu Higher Secondary Educational Services in rectification of pay anomaly by ensuring the requisite difference of scale of pay applicable to the post P.G. Assistant and B.T. Assistant as given in the preceding pay Commissions III to VI within a time frame to be fixed.

For Petitioner : Mr.G.Sankaran,
Senior Counsel
for Mr.S.Nedunchezhiyan

For Respondents
For R1 & 2 : Mr.Yogesh Kannadasan,
Special Government Pleader

For R3 & 4 : Mrs.S.Mythreye Chandru,
Special Government Pleader

ORDER



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This writ petition has been filed challenging the order passed by the fourth respondent dated 18.11.2021 and the order dated 15.12.2022 thereby rejected the request made by the petitioner seeking to rectify the pay anomaly.

2. The petitioner is an association. The Post Graduate Teachers in Government Higher Secondary Schools in the State of Tamilnadu are the members of the petitioner. The post of PG Assistant in academic subjects and languages are governed by Special Rules for Tamilnadu Higher Secondary Educational Services as per GO.Ms.No.720 Education Department dated 28.04.1981. Accordingly, it is to be filled up by direct recruitment, recruitment by transfer from cadre 3 & 5 of Class II of Tamilnadu Educational Subordinate Services (Deputy Inspector of Schools, School Assistants, Pandits and Munsifs Grade-I). Therefore, the subordinate services is a feeder category for promotion to the post of PG Assistant. The qualification for Post Graduate Teachers was prescribed as Post Graduation degree with B.Ed. and for Graduate Teachers, undergraduation with B.Ed. degree. As per GO.Ms.No.234 Finance Department dated 01.06.2009, the revised scale of pay has been



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implemented with effect from 01.01.2006. Accordingly, PG Assistants were fixed with the scale of Rs.9300-34800+4800 GP. The revision was based on One Man Commission recommendations through GO.Ms.No.23 dated 12.01.2011. Likewise, the scale of pay applicable to the BT Assistant, revised with pay band of Rs.9300-34800-4600 GP. There is a major difference of Rs.200/- grade pay between both the posts. Therefore, there is pay anomaly arises in the event of teachers who are appointed as BT Assistant qualified with post graduation and granted with incentive increment and as such, their salary will be more than the salary fixed for PG Assistant. The following table describes the basic pay difference between post graduate teachers and graduate teachers:

S No	Pay Com.	Scale of pay PGT	UGT	Starting pay PGT	UGT	Differ-ence	Percen-tage
1	III	675-35-885-45-1200	450-20-590-25-740-30-800	675	450	225	50.00
2	IV	1160-50-1460-70-1950	780-35-1025-40-1385	1160	780	380	48.72
3	V	1820-60-2300-75-3200	1400-40-1600-50-2300-60-2600	1820	1400	420	30.00
4	VI	6500-200-10500	5500-175-9000	6500	5500	1000	18.18
5	VII	9300-34800-4800 GP	9300-34800+4600 GP	14100	13900	200	1.44
6	VIII	36900	36400	36900	36400	500	1.37



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2.1 The pay difference between PG Assistants and BT Assistants if both of them are appointed to the posts on the same day with same qualifications, is given as follows:

S No	Pay Com.	Scale of pay PG Assistant	BT Assistant	Starting pay PGT (without incentive increment)	UGT (with incentive increment)	Difference between PG Asst & BT Asst
1	III	675-35-885-45-1200	450-20-590-25-740-30-800	675	450+20+20=490	185
2	IV	1160-50-1460-70-1950	780-35-1025-40-1385	1160	780+35+35=850	310
3	V	1820-60-2300-75-3200	1400-40-1600-50-2300-60-2600	1820	1400+40+40=1480	340
4	VI	6500-200-10500	5500-175-9000	6500	5500+175+175=5850	650
5	VII	9300-34800-4800 GP	9300-34800+4600 GP	14100	13900+420+420=14740	-640
6	VIII	36400	36900	36900	38600	-1700

2.2 Therefore, when two candidates possessing the same qualification of M.Sc., B.Ed., and one appointed as BT Assistant and another got appointed as PG Assistant on the same day, BT Assistant is given the salary of Rs.14,740/- on sanction of incentive increment for



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M.Sc. Degree whereas the PG Assistant is given the salary of Rs.14,100/- which is lesser than BT Assistant salary. Though the post of BT Assistant is a feeder category for the post of PG Assistant, they are receiving higher salary than the promotional post. Further, when the same BT Assistant is given further promotion to the post of PG Assistant, they will be sanctioned with 3% of pay and grade pay on promotion, in which event there would be pay difference of Rs.1,090/- between direct recruit PG Assistant and the promotive PG Assistant on subsequent date. Therefore, the petitioner is being an association of PG Assistants, submitted representation to rectify the said pay anomaly by refixing the pay applicable to the post of PG Assistant before the Grievance Redressal Cell. However, it was not considered and as such, the petitioner was constrained to file writ petition before this Court in WP.No.1384 of 2014 and this Court directed the respondents to consider the claim of the petitioner and to pass orders within a period of eight weeks from the date of receipt of the order. After filing contempt petition, the representation submitted by the petitioner was considered and the fourth respondent rejected the same by an order dated 18.11.2021 and by an order dated 15.12.2022 on the ground that BT Assistant is sanctioned incentive



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increment for PG qualification which remains to be the basic qualification for recruitment to the post of PG Assistant.

3. The learned Senior Counsel appearing for the petitioner would submit that the fourth respondent is not the authority to take decision for the purpose of rectification of pay anomaly and respondents 1 to 3 are the competent authorities to take appropriate decision on the representation submitted by the petitioner. There must be a difference in the scale of pay applicable to the posts of PG Assistant and BT Assistant. Grant of incentive increment to the lower post could not be resulting in higher salary for the lower post. The fixation of pay was correctly followed till the last Pay Commission. But in the current Pay Commission, revision of pay has taken place with lesser / marginal difference of pay between the posts of PG Assistant and BT Assistant. Therefore, there is pay anomaly affecting the interest of direct recruits PG Assistants.

4. Heard, the learned counsel appearing on either side.



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5. On perusal of the counter filed by the fourth respondent and the submissions of the learned Special Government Pleader appearing for respondents 3 & 4 revealed that no doubt BT Assistants are appointed to take classes for 9th and 10th standards and the Postgraduate Assistants are handling Higher Secondary Classes. Government Orders in GO.Ms.No.42 Education Department dated 10.01.1969, GO.Ms.No.747 Finance (Pay Cell) Department dated 18.08.1986 and LO.Ms.No.1170 Science and Technology Department dated 20.12.1993 issued for granting advance increments to the teachers for each higher qualification acquired by them than that of the prescribed educational qualification for the post prescribed. The maximum number of advance increments which a teacher can get under the scheme of incentive increments as per the Government Orders in force shall be two in the entire service. This benefit was applicable to Secondary Grade Teachers, BT Assistants and PG Assistants. It is true that for a person seeking appointment to the post of PG Assistant, the qualification is only PG degree with B.Ed. The qualification for appointment to the post of BT Assistant is undergraduation with B.Ed. degree. However, when the person appointed in the post of BT Assistant possessing higher qualification, that person is



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entitled for incentive increment as per the Government orders. On the other hand, if a teacher is seeking appointment to the post of BT Assistant possessing additional qualification than what is required for the post at the time of entry into service, the said teacher will be granted incentive increment and also gets higher pay for having possessed higher qualification.

6. Now the Government have reviewed the scheme of sanction of incentive increment for acquiring higher qualification and have taken a policy decision to cancel / dispense with immediate effect the scheme of incentive increment to teachers and Government servants working in all departments by the Government order in GO.Ms.No.37 Personnel and Administrative Reforms Department dated 13.03.2020 taking into account of various aspects including pay anomaly. Since the procedure of sanctioning incentive increments for higher qualification is dispensed with, the minimum scale of pay applicable to particular post is only eligible with effect from 10.03.2020. Therefore, disparity will not arise with effect from 10.03.2020



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7. In this regard, it is relevant to rely upon the order of this Court passed in WP.No.2414 of 2024 dated 05.02.2024 challenging the order in G.O.Ms.No.120, Human Resources Management (FR-IV) Department, dated 01.11.2021, wherein this Court upheld the Government Order and held as follows:

“4. In this regard, the Government had already passed G.O. (Ms) No. 37, Personnel and Administrative Reforms (FR-IV) department, dated 10.03.2020, it has clearly been mentioned as follows:-

"The cases of Government servants who have acquired higher qualification prior to issue of this general order, and not sanctioned with advance increments be examined separately as per the previous orders issued, if any, by the administrative department concerned and with reference to the posts specified in that order and if he is otherwise qualified, then the advance increment may be sanctioned by the administrative department concerned after obtaining concurrence of Finance department. If no previous orders were issued by any of the department concerned, then they are not eligible for sanction of any advance increments for passing higher qualification irrespective of the post held/degree acquired."

5. Certain clarification have been issued in



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G.O.(Ms) No.116, P&AR (FRIV) Dept., dated 15.10.2020 i.e., the cases of Government Servants who have acquired higher qualification prior to the date of issue of G.O. (Ms) No. 37, P&AR Dept., dated 10.03.2020 and appropriate orders to be issued before 31.03.2021. Based on the orders issued in G.O. (Ms) No.116, P&AR (FRIV) Dept., dated 15.10.2020, the cut off date for granting advance increment who have acquired higher qualification prior to 10.03.2020 has been extended from 10.03.2020 to 31.03.2021. Further, on exemption basis, all the pending claims have been allowed until the orders issued in G.O. (Ms) No. 95, Personnel and Administrative Reforms (FR-IV) Department, dated 26.10.2023.

6. Further, as a policy measure for welfare of Government Servants a new policy has been adopted on the analogy of Government of India and orders have been issued in G.O.Ms.No.120, Human Resources Management (FR-IV) Department, dated 01.11.2021, for granting incentive in the form of one-time lumpsum amount to the State Government Employees for having acquired additional qualification after 10.03.2020 as follows:-

Sl.No.	Higher Qualification	Amount
1.	Ph.D	25,000/-



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<i>Sl.No.</i>	<i>Higher Qualification</i>	<i>Amount</i>
2.	PG Degree or equivalent	20,000/-
3.	Degree/Diploma	10,000/-

8. Therefore, the request made by the petitioner was rightly rejected and this Court finds no infirmity or illegality in the order passed by the fourth respondent dated 18.11.2021 and the order dated 15.12.2022. As such, this writ petition is devoid of merits and liable to be dismissed.

9. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

25.07.2024

Neutral Citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

- 1.Principal Secretary to Government,
The State of Tamilnadu,
Finance Department,
Fort St.George,
Secretariat,
Chennai 600 009
- 2.Principal Secretary to Government,
The State of Tamilnadu,
Personnel and Administrative Reforms Department,
Fort St.George, Secretariat,
Chennai 600 009
- 3.Principal Secretary to Government,
The State of Tamilnadu,
School Education Department,
Fort St.George, Secretariat,



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Chennai 600 009
4. The Commissioner,
Directorate of School Education,
DPI Campus, College Road,
Chennai 600 006

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