



W.P.Nos.27441 and 27442 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.08.2024

PRONOUNCED ON : 24.10.2024

CORAM

THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.Nos.27441 and 27442 of 2015

W.P.No.27441 of 2015:

D.James Raj

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Represented by Principal Secretary to the Government,
Finance (Pay Cell) Department,
Fort St.George,
Chennai – 600 009.
- 2.The Secretary to the Government,
Government of Tamil Nadu,
School Education Department,
Fort St.George,
Chennai – 600 009.
- 3.The Director of School Education,
College Road,
Chennai – 600 006.
- 4.The Chief Educational Officer,
Tiruchirappalli District,
Tiruchirappalli.
- 5.The Headmaster,
Government Syed Murthuza



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Higher Secondary School,
Tiruchirappalli – 620 008.

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6. The Headmaster,
Government Higher Secondary School,
Ponnan Kombu,
Manaparai Taluk,
Tiruchirappalli – 621 306.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in relation to para 3 of the G.O.Ms.No.263 Finance (Pay Cell) Department dated 22.07.2013 and Letter No.66853/CMPC/2013-2 dated 22.08.2014 and quash the same insofar as it gives monetary benefits to the petitioner with effect from 01.04.2013 and insofar as it restricts the selection grade scale of pay of the Vocational Instructor at Rs.9300-34800 + 4800 GP and insofar as the petitioner is concerned and issue a consequential direction to the respondent to grant the revised scale of pay of Rs.9300-34800 + 4600 GP as ordinary grade to the Vocational Instructor, like the petitioner with monetary benefit from 01.01.2011 and fix the petitioner's selection grade at Rs.15600-39100 + 5400 from 01.01.2011 with monetary benefits and fix consequential of pay of petition in the post of P.G. Assistant and grant all consequential benefits to the petitioner.

For Petitioner : Mr.R.Saseetharan

For Respondents : Mr.M.Rajendiran

Additional Government Pleader

W.P.No.27442 of 2015:



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... Petitioner

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Vs.

- 1.The Government of Tamil Nadu,
Represented by Principal Secretary to the Government,
Finance (Pay Cell) Department,
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- 2.The Secretary to the Government,
Government of Tamil Nadu,
School Education Department,
Fort St.George,
Chennai – 600 009.
- 3.The Director of School Education,
College Road,
Chennai – 600 006.
- 4.The Chief Educational Officer,
Namakkal District,
Namakkal.
- 5.The Headmaster,
Government Higher Secondary School,
Kadampalayam,
Namakkal District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in relation to para 3 of the G.O.Ms.No.263 Finance (Pay Cell) Department dated 22.07.2013 and Letter No.66858/CMPC/2013-2 dated 22.08.2014 and quash the same insofar as it gives monetary benefits to the petitioner with effect from 01.04.2013 and



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insofar as it restricts the selection grade scale of pay of the Vocational Instructor at Rs.9300-34800 + 4800 GP and insofar as the petitioner is concerned and issue a consequential direction to the respondent to grant the revised scale of pay of Rs.9300-34800 + 4600 GP as ordinary grade to the Vocational Instructor, like the petitioner with monetary benefit from 01.01.2011 and fix the petitioner's selection grade at Rs.15600-39100 + 5400 from 01.01.2011 with monetary benefits and fix consequential of pay of petition in the post of P.G. Assistant and grant all consequential benefits to the petitioner.

For Petitioner : Mr.R.Saseetharan

For Respondents : Mr.M.Rajendiran

Additional Government Pleader

COMMON ORDER

There are 2 Writ Petitions filed in W.P.Nos.27441 and 27442 of 2015, wherein, a challenge is laid to para 3 of G.O.Ms.No.263 dated 22.07.2013, while also challenging the letter / proceeding dated 22.08.2014, insofar as it extends monetary benefit to the petitioners only with effect from 01.04.2013 while restricting the selection grade scale of pay of the petitioners (Vocational Instructor) at Rs.9300-34800 + Rs.4800/- G.P. instead of granting the selection grade at Rs.15600-39100 + Rs.5400/- G.P.



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2.1. The petitioner in W.P.No.27441 of 2015, namely, D.James Raj, was appointed as a part time Vocational Instructor in Commerce on 26.07.1984 at Government Syed Murthuza Higher Secondary School, Tiruchirappalli and thereafter, was regularized as a Vocational Instructor in regular time scale pay of Rs.1400-2600/-, which is the scale of pay for the B.T. Assistant. The service of the petitioner was regularised in the post of Vocational Instructor with effect from 01.04.1990 and was brought to regular time scale of pay from the said date. The petitioner was granted selection grade scale of pay in the post of Vocational Instructor from 27.04.2000 fixing his pay in the scale of Rs.6500-Rs.10,500/-, which is the selection grade scale of pay, as per the recommendations of the Official Pay Committee, for the post of B.T. Assistant with effect from 01.01.1996.

2.2. The petitioner in W.P.No.27442 of 2015, namely, S.Sundar was appointed as a part time Vocational Instructor in Commerce on 08.11.1984 at Government Higher Secondary School, Pallipalayam, Thiruchengode Taluk, Salem District and thereafter, was regularized as a Vocational Instructor in regular time scale pay of Rs.1400-2600/-, which is the scale of pay for the B.T. Assistant. The service of the petitioner was regularised in the post of Vocational



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Instructor with effect from 01.04.1990 and was brought to regular time scale of pay from the said date. The petitioner was granted selection grade scale of pay in the post of Vocational Instructor from 01.04.2000 fixing his pay in the scale of Rs.6500-Rs.10,500/-, which is the selection grade scale of pay, as per the recommendations of the Official Pay Committee, for the post of B.T. Assistant with effect from 01.01.1996.

3. The Government of Tamil Nadu vide G.O.Ms.No.6 dated 04.01.2000 introduced revised scale of pay in terms of the recommendations of the Official Pay Committee. Pursuant thereto, the pay of Vocational Instructor for commerce and business was revised from Rs.1400-40-1600-50-2300-60-2600 to Rs.5500-175-9000 with effect from 01.01.1996. Thereafter, vide G.O.Ms.No.234 dated 01.06.2009, the Government of Tamil Nadu on the basis of the recommendation of the Official Pay Committee on revision of scale of pay and allowance, revised the scale of pay falling within the pay scale of Rs.5500-175-9000 to Rs.9300-34800 with a grade pay of Rs.4400. It is submitted that the petitioner would fall within the said category inasmuch as the revised pay is only on the basis of the scale of pay and not on the basis of the post or a class thereof. Thereafter, vide G.O.Ms.No.23 dated 12.11.2011, there was further revision of pay for 5 categories including B.T. Assistant,



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whereby, the scale of pay was revised from Rs.9300-34800+4400 to Rs.9300-34800+4600. The post of Vocational Instructor was not expressly included in the above revision. It was submitted that there were numerous representations by the categories of employees, who were left out although their pay scales were until G.O.Ms.No.23 dated 12.01.2011 on par with the B.T. Assistant. Pursuant to the said representations, a Pay Grievance Redressal Cell was constituted to examine the representations received from various employees associations / heads of department, individual employees, relating to anomalies in the revised pay structure. The Pay Grievance Redressal Cell made certain recommendations which the Government decided to implement. Consequent thereto, the scale of pay + grade pay for the post of Vocational Instructor was revised from Rs.9300- 34800+4400 to Rs.9300-34800+4600. However, para 3 of the said G.O. provided that the revision of scale of pay ordered in para 1 above shall take notional effect from 01.01.2006 for the purpose of fixation of pay in the revised scale of pay with monetary benefit from 01.04.2013. However, the Personal pay / Special Allowance sanctioned to the Principals in Government Teacher Training Institute shall take prospective effect from 01.04.2013. The relevant portion of G.O.Ms.No.263 is extracted hereunder:

“The Pay Grievance Redressal Cell constituted in the Government Order third read above to examine the representations



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received from the Employees Associations / Head of Departments / Individual employees including the aggrieved petitioners in Writ Petitions relating to anomalies in the revised pay structure of the respective posts has recommended for revision of scales of pay of certain categories in School Education / Teacher Education Research and Training Departments. After careful examination, the Government has decided to implement the recommendations made by the Pay Grievance Redressal Cell in respect of School Education / Teacher Education Research and Training Departments. Accordingly, Government direct that the scales of pay of the following posts shall be revised as shown below:--

<i>Sl.No.</i>	<i>Name of the Post</i>	<i>Existing Scale of Pay + Grade Pay</i>	<i>Revised Scale of Pay + Grade Pay</i>
		<i>(Rs.)</i>	<i>(Rs.)</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
1	Tamil Pandit / Physical Director (High School) / Vocational Teachers / Instructors and other categories of Teachers in the cadre of B.T. Assistant.	9300--34800 + 4400	9300--34800 + 4600
2	Physical Director Grade--II	9300--34800 + 4400	9300--34800+ 4600
3	Physical Director Grade--I	9300--34800 + 4600	9300--34800 + 4800
<i>Government Teacher Training Institute:</i>			



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4	<i>Junior Lecturer</i>	9300--34800 + 4400	9300--34800 + 4600
5	<i>Principal</i>	9300--34800 + 4600	9300--34800 + 4800 + Rs.750/- Personal Pay (To Ordinary Grade holders) [to others in Selection Grade / Special Grade prior to 1-1-06 + Rs.500/- Special Allowance]
<i>District Institute of Education & Training:</i>			
6	<i>Lecturer</i>	9300--34800 + 4600	9300--34800 + 4800
7	<i>Senior Lecturer</i>	15600--39100 + 5400	15600--39100 + 5700

2) *The above revision of scales of pay is also applicable to similar posts in School Education, Adi Dravidar and Tribal Welfare and Backward Classes Welfare, Most Backward Classes and Denotified Communities Directorates.*

3) *The revision of scale of pay ordered in para--1 above shall take notional effect from 1--1--2006 for the purpose of fixation of pay in the revised scale of pay with monetary benefit from 1--4--2013. However, the Personal pay / Special Allowance sanctioned to the Principals in Government Teacher Training Institute shall take prospective effect from 1-4-2013."*

4. It is submitted by the learned counsel for the petitioners that there is



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no reason for not extending the pay to the Vocational Instructors on par with B.T. Assistants only for the period from 12.01.2011 to 01.04.2013. More so, when it is only pursuant to the representation made by the petitioners, the respondents have chosen to refix the scale of pay of the Vocational Instructor on par with B.T. Assistants.

5. To the contrary, it was submitted by the learned Additional Government Pleader for the respondents that fixation of pay and posts are complex matters and it falls within the exclusive domain of the executive and Courts would be loathe in interfering with the same under Article 226 of the Constitution of India.

6. Heard both sides and perused the materials available on record.

7. While dealing with the above question, it is necessary to bear in mind the following aspects relating to fixation of pay or parity of pay:

(i) Parity in pay depends on several factors and a comparative evaluation of jobs and equation of posts. The burden is on the person, who claims parity of pay, to produce evidence of similarity in nature of duties, functions, responsibilities, promotional avenues, educational qualification for



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appointment to the posts and mode of appointment.¹

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(ii) The mere fact that parity in pay has been maintained for several years, may not entitle an employee to insist on the parity being maintained. The factum of same pay for several years is inconsequential while dealing with entitlement to parity in pay, which is, as indicated supra, a complex exercise requiring enquiry into several factors, best left to the wisdom of the executive.² It is thus clear that the room for interference in fixation of pay or in dealing with parity of pay is very limited and narrow.

8. However, two aspects appear to me to be relevant. This Court has considered the very same Government Order in W.P.No.5407 of 2014 dated 16.04.2015. The petitioners therein were working as Senior Lecturers in the District Institute of Teacher Education, Research and Training (DIET), Erode District, whose scales of pay were similar/identical with that of the Headmasters of Higher Secondary School and the District Educational Officers, for several years, however, vide G.O.Ms.No.23 dated 12.01.2011, the pay scales were revised in the case of Headmasters of Higher Secondary Schools and the District Educational Officers and PG Assistants with effect from

¹ Punjab SEB v. Thana Singh, (2019) 4 SCC 113

² Punjab State Power Corpn. Ltd. v. Rajesh Kumar Jindal, (2019) 3 SCC 547,
State of Haryana v. Haryana Civil Secretariat Personal Staff Assn., (2002) 6 SCC 72
Punjab SEB v. Thana Singh, (2019) 4 SCC 113



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01.01.2006 notionally and with monetary benefit from 01.01.2011. However, the equivalent posts, viz., the post of Senior Lecturers and Lecturers were not specifically mentioned. Resultantly, Senior Lecturers did not have the benefit of revised pay in terms of G.O.Ms.No.23 dated 12.01.2011. This is similar to the case herein whereby the Vocational Instructors who were paid on par with B.T.Assistant, were not extended the benefit of higher pay granted to B.T.Assistant vide G.O.Ms.No.23 dated 12.01.2011 for the period from 01.01.2011 to 01.04.2013.

9. As in the instant case, representations were made and considered by the Pay Grievance Redressal Cell and G.O.Ms.No.263 was issued, whereby, the pay parity was restored. However, it restored the pay parity only with effect from 01.04.2013. Writ Petition was thus filed by Senior Lecturers challenging the pay disparity for the period from 01.01.2011 to 01.04.2013. Considering the above issue, this Court was pleased to pass the following order:

“4. After hearing the learned counsel for the parties and perusing the materials placed on record, it is not in dispute that the petitioners were drawing same scale of pay in the pre-revised scale of pay as mentioned above and hence the petitioners are automatically entitled for the revised scales of pay pursuant to G.O.Ms.No.23, Finance (Pay Cell) Department, dated 12.01.2011. It may be true that the



posts held by the petitioners were not specifically mentioned in the said G.O.Ms.No.23. Nevertheless, in G.O.Ms.No.122, School Education Department, dated 06.08.2002, the Government has clearly quoted the posts and this has continuously being implemented and the posts of Senior Lecturers/Lecturers were treated on par with that of the posts of Headmasters of Higher Secondary Schools/ P.G. Assistants respectively. Therefore, for no fault committed by the petitioners, the posts held by them were left out from being specifically mentioned in G.O.Ms.23 dated 12.01.2011. That by itself will not be a ground to deny the monetary benefit to the petitioners with effect from 01.01.2011 as extended to the incumbents holding the posts with identical scale of pay. That apart, the impugned order dated 22.07.2013, does not assign any reason as to why the monetary benefits are restricted and it was given only from 01.04.2013. This is also one more reason to hold that the Government Order dated 22.07.2013 to that extent is unsustainable. In fact, the Principal of the Petitioners Institution initially rightly understood the scope of G.O.Ms.No.23 and extended the monetary benefits. In the light of the above conclusion arrived at by this Court, there is absolutely no justification for any recovery.

5. In the result, the writ petition is allowed and the impugned Government order in G.O.Ms.No.263, Finance (Pay Cell) Department, dated 22.07.2013, insofar as it restricts the monetary benefits with effect from 01.04.2013 is quashed. Consequently, the impugned order of recovery dated 06.01.2014 also stands quashed.



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Since the petitioners obtained an order of interim stay of the impugned proceedings by order dated 24.02.2014, no recovery has been effected. The respondents are directed to extend the monetary benefits with effect from 01.01.2011 as extended to the incumbents holding the post with identical scales of pay as given in G.O.Ms.No.23 dated 12.01.2011.”

10. Since the above Writ Petition is dealing with the very same Government Order and identical grounds were considered, this Court following the above Writ Petition finds it appropriate to extend the benefit and restore the pay parity to the petitioners herein with that of B.T. Assistants for the period from 01.01.2011 to 01.04.2013. This Court is also prompted to arrive at the above conclusion inasmuch as the impugned Government Order itself was issued pursuant to the representation made by the Vocational Instructors aggrieved by the disparity in pay with that of the B.T. Assistants. The Government having found that there must be parity in pay between the Vocational Instructors, i.e., the petitioners and B.T. Assistants, there is no reason not to extend the pay to the Vocational Instructors on par with that of B.T. Assistants only for the period from 01.01.2011 to 01.04.2013. The respondents are directed to extend the pay to the petitioners on par with that of B.T. Assistants for the period from 01.01.2011 to 01.04.2013.



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11. In view thereof, the Writ Petitions are disposed of in the above terms.

There shall be no order as to costs.

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Index : Yes / No

Internet : Yes/ No

Lm

To:

1.The Principal Secretary to the Government,
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Finance (Pay Cell) Department,
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