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THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 23.10.2024**

CORAM

**THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR**

**W.P.No.5662 of 2015**

1. N.Sabapathy
2. R.Jayapal
3. K.Sakkappan
4. M.Dhanasekaran
5. K.Sardar

... Petitioners

Vs

- 1.The Government of Tamilnadu represented by  
the Secretary to the Government, Social Welfare  
the Nutritious Meal Programme Department,  
Chennai-600 009.

2. The Director of Social Defence,  
Chennai-600 010.

... Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the second respondent in No.692/A2/2013 dated 15.02.2013 and quash the same and direct the respondents to grant 5% personal pay to the Petitioners with effect from 01.09.1998 and grant all consequential benefits to them.

For Petitioner : Mr.P.Rajendran



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For Respondents : Mr. Vadivelu Deenadayalan,  
Additional Government Pleader

### **ORDER**

The petitioners herein are appointed as Instructors in Social Defence Department, have been granted a benefit of 5% personal pay in the basic pay in terms of G.O.Ms.No.664, Finance (Pay Cell) Department, dated 24.08.1992 and G.O.Ms.No.873, Finance (Pay Cell) Department, dated 27.12.1992. Thereafter, the revised pay scale came into force by virtue of the Government Order issued in G.O.Ms.No.162, Finance (Pay Cell), Department, dated 13.04.1998.

2. Various association of employees requested for further revision and fixation of scale of pay of instructors, but the Government, after having considered the said requests thought it is fit to grant 5% personal pay to all the categories of employees as granted in G.O.Ms.No.664, dated 24.08.1992 and G.O.Ms.No.873 dated 27.12.1993 and accordingly, the Government granted the said benefit of personal pay of 5% on the basic pay with effect from



01.09.1998 by issuing G.O.Ms.No.497, Finance (Pay Cell) Department dated 15.09.1998. However, a restriction is imposed in the said G.O. stating that such personal pay shall not apply to any promotion beyond the scale of pay of Rs.5500-9000. Accordingly, the petitioners were granted the benefit of personal pay in terms of the said G.O.Ms.No.497, dated 15.09.1998. However, the said personal pay was withdrawn by virtue of a clarification letter No.9028-SW-8/2001-3, dated 17.02.2001. As against the said order of stoppage and recovery of 5% of personal pay, the association of various employees approached the then Tamil Nadu Administrative Tribunal in O.A.No.3403 of 2002 and after abolition of the said Tribunal, the matter was transferred to this Court and re-numbered as W.P.No.5890 of 2007 and the same was dismissed on 27.07.2012 on the ground that Association cannot file a writ petition and liberty was given to the aggrieved parties to assert their individual right in accordance with law, if so advised.

3. It was thereafter, the petitioners made a representation dated 23.08.2012 requesting for extending the benefit of 5% of personal pay in



terms of G.O.Ms.No.497, dated 15.09.1998. However, the said request was rejected by the respondents through proceedings dated 15.02.2013. It is aggrieved by the said proceedings dated 15.02.2013, the petitioners filed the present writ petition seeking to grant 5% personal pay with effect from 01.09.1998.

4. When the matter was taken up for hearing, learned counsel for the petitioner brought to the notice of this Court that, under similar circumstances, this Court considered the matter and allowed the identical claims made by the similarly placed persons like the petitioners herein in W.P.No.15690 of 2018 and W.P.No.20994 of 2012 by orders dated 04.09.2024 and 28.06.2024, respectively.

5. Mr.Vadivelu Deenadayalan, learned Additional Government Pleader, appearing for the respondents contended that in lieu of the revised pay scale that were implemented as per G.O.Ms.No.162, Finance (Pay Cell) Department,



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dated 13.04.1998 and the further revision of scale of pay granted by giving effect to 5% personal pay through G.O.Ms.No.554, Finance (Pay Cell) Department, dated 28.09.1998. Therefore the petitioners are not entitled to the benefit of 5% of personal pay in terms of G.O.Ms.No.497 dated 15.09.1998. He also placed reliance on a clarification letter issued by the Government dated 23.03.2001. He further stated that Government letter dated 17.10.2001 would reveal that the personal pay of 5% that was awarded to the employees as per G.O.Ms.No.497 dated 15.09.1998 is not available to the instructors who already got the benefit of higher scale of pay as per G.O.Ms.No.554, Finance (Pay Cell) Department, dated 28.09.1998. Hence, the amount that were erroneously paid should be recovered from their salary as the petitioners are not entitled for the benefit of 5% personal pay.

6. From a perusal of G.O.Ms.No.497, dated 15.09.1998, it is evident that the said benefit of 5% of personal pay was extended to those categories of employees who had the benefit of 5% of personal pay prior to the implementation of revised pay scales through G.O.Ms.No.162, dated



13.04.1998. The petitioners herein are claiming the persons who had the benefit of 5% of personal pay in terms of G.O.Ms.No.664, dated 24.08.1992 and G.O.Ms.No.873, dated 27.12.1993.

7. From G.O.Ms.No.497, dated 15.09.1998, it is evident that the benefit of 5% personal pay was extended notwithstanding the revision of scales of pay as per G.O.Ms.No.162 dated 13.04.1998, that came into force with effect from 01.09.1998. The benefit of personal pay in G.O.No.497 dated 15.09.1998 was in favour of only certain categories of employees. Only restricted categories of employees who were drawing 5% of personal pay prior to 01.01.1996 in the pre-revised scales of pay, may be eligible for 5% personal pay. The persons who are drawing scale of pay beyond Rs.5500-9000 are dis-entitled of such personal pay.

8. Even assuming that the contention of learned Additional Government Pleader that as per G.O.Ms.No.554, all the categories of instructors whose pay were revised, were also granted the revised scale of pay through



G.O.Ms.No.554 dated 28.09.1998, the same is less than Rs.5500-9000. In view of the same, the contention of the learned Additional Government Pleader that the personal pay which is the subject matter of G.O.Ms.No.497 was duly taken care of by G.O.Ms.No.554, dated 28.09.1998. Certain categories of employees who got pay less than Rs.5500-9000, are entitled to 5% of personal pay and the same cannot be denied. In these circumstances, the impugned order cannot be sustained. Further, the same view has already been taken by the two co-ordinate Benches of this Court vide W.P.Nos.15690 of 2018, dated 04.09.2024 and 20994 of 2012, dated 28.06.2024.

9. In the above circumstances, the impugned order dated 15.02.2013 is quashed and accordingly, W.P.No.5662 of 2015 is allowed as prayed for. No costs.

**23.10.2024**

Index : Yes/No  
Speaking order / Non-speaking order  
Neutral Citation Case : Yes/No



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To

1. The Government of Tamilnadu represented by  
the Secretary to the Government, Social Welfare  
the Nutritious Meal Programme Department,  
Chennai-600 009.
2. The Director of Social Defence,  
Chennai-600 010.



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**MUMMINENI SUDHEER KUMAR J.**

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**W.P.No.5662 of 2015**



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