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W.P.No.13226 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.13226 of 2020

1.G.Harish
2.M.Kumaran
3.K.Thilakavathi
4.V.Devasena
5.K.Jayavel
6.P.Rajkumar
7.M.Valarmathi
8.J.Meenakshi
9.P.B.Geethalakshmi

...Petitioners

-Vs-

1.The Government of Tamil Nadu,
Rep. by the Principal Secretary to the Government,
Finance (CMPC) Department,
Fort St.George, Chennai – 600 009.

2.The Chief Educational Officer,
Kancheepuram, Kancheepuram District.

3.The Secretary,
Tamil Nadu Public Service Commission.
TNPSC Road, Chennai – 600 003.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the first



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respondent in G.O.Ms.No.33, Finance (CMPC) Department, dated 24.02.2020 and quash the same and direct the respondents to grant the petitioners higher start of pay at two stages above the minimum of scale of pay for possessing degree qualification at the time of selection by the TNPSC in the light of the orders passed by the first respondent in Letter No.2680/PC/2018-5, Finance (Pay Cell) dated 19.09.2018 and grant them all consequential benefits.

For Petitioners : Mr.P.Rajendiran
For R1 & R2 : Mr.M.Rajendiran
Additional Government Pleader
For R3 : Mr.R.Bharanidharan

ORDER

This writ petition is filed to quash the impugned order of the first respondent in G.O.Ms.No.33, Finance (CMPC) Department, dated 24.02.2020 and quash the same and direct the respondents to grant the petitioners higher start of pay at two stages above the minimum of scale of pay for possessing degree qualification at the time of selection by the TNPSC in the light of the orders passed by the first respondent in Letter No.2680/PC/2018-5, Finance (Pay Cell) dated 19.09.2018 and grant them all consequential benefits.



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2. The case of the petitioners are as follows:

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2.1 The petitioners were working as Junior Assistants in the School Education Department. They were selected for the said post pursuant to the Tamil Nadu Public Services Commission Notification for appointment to Group-IV services Examination (2007-2008 to 2012-2013) in the Tamilnadu Ministerial Service/Tamilnadu Judicial Ministerial Service/Tamilnadu Survey and Land Records Subordinate Service. The said Notification, namely, Notification No.14/2012 was issued on 27.04.2012. A total number of 10718 vacancies were notified.

2.2 As per the said Notification, the last date for submission of online Application was 28.05.2012 and the last date for online payment of fee was 30.05.2012 and the date of Written Examination was 07.07.2012. In accordance with the said Notification, the petitioners submitted their online Applications before the date fixed and they also made the online payment of fee before the date fixed. The petitioners were called for the Written Examination and they wrote the Written Examination on 07.07.2012. The petitioners were selected in the said Written Examination and the Selection was intimated to them by the TNPSC Memorandum No.7027/PSD-B2/2010 dated 17.12.2012 and were allotted to the School Education Department.



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2.3 In the said Memorandum, it was further stated that the Appointing Authority for the petitioners was the Director, School Education Department, Chennai-600006 and they were directed to report to the said Appointing Authority to get the appointment orders. In other Departments and Offices, appointment orders were issued to the selected candidates during January and February, 2013. However, in the petitioners Department and in their District, appointment orders were issued only after 01.04.2013 and they were appointed in the above said Offices.

3. Learned counsel appearing for the petitioners submitted that at the time of appointment all of them were in possession of degree qualification even though the prescribed qualification was SSLC. In G.O.Ms.No.321, Finance (Pay Cell) Department dated 02.07.1998, the Government of Tamil Nadu issued orders directing the grant of higher start of pay at two stages above the minimum of scale of pay to the Graduate Junior Assistant/Typist/Record Clerk. However, in G.O.Ms.No.241, Finance (Pay Cell) Department dated 22.07.2013, the Government of Tamil Nadu has ordered that the grant of higher start of pay granted to the Graduate Junior Assistant/Typist for possession of degree qualification shall be dispensed with from 01.04.2013. As a result, the candidates who were selected along



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with them pursuant to the same TNPSC Notification No.14/2012 dated 27.04.2012 and who wrote the Written Examination along with them on 07.07.2012 and who were intimated of the selection by the TNPSC along with them during November-December, 2012 and received appointment orders before 01.04.2013 are given higher start of pay for possessing degree qualification.

4. On account of the administrative delay on the part of the respondents, appointment orders were issued to them after 01.04.2013 and they joined duty after 01.04.2013. Therefore, the petitioners have not been given the higher start of pay at two stages above the minimum scale of pay and they are getting less pay than the candidates who were selected for the same post along with them in the same selection.

5. Learned counsel further submitted that in the case of one Thiru.B.Raghu and 2 others, Typists of the Revenue Department, Kancheepuram, the higher start of pay given to them for possession of Degree qualification at the time of appointment was withdrawn stating that in G.O.Ms.No.241, Finance (Pay Cell) Department dated 22.07.2013, the Government of Tamil Nadu had ordered that the grant of higher start of pay



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granted to the Graduate Junior Assistant/Typist for possession of degree qualification should be dispensed with, with effect from 01.04.2013 and that they joined duty after 01.04.2013 and that they were not eligible for the higher start of pay. Recovery of the incentive amounts already drawn by them was also ordered.

6. Learned counsel further submitted that the said Thiru.B.Raghu and 2 others approached this Court and filed W.P.No.30012 of 2013 with a prayer to quash the recovery and for a direction to restore the higher start of pay, which was withdrawn by the impugned order in that Writ Petition. This Court was pleased to admit the Writ Petition and stayed the recovery.

7. While the writ petition was pending, the Government considered the entire issue and rightly came to the conclusion that if the Petitioners in the said Writ Petition were given appointment letters soon after the receipt of allotment list from the TNPSC on 07.02.2013, they could have joined duty before 01.04.2013 and that as the delay in forwarding the allotment is on the part of administration and as the Petitioners are all graduates at the time of selection, they are entitled for the higher start of pay for possessing Degree qualification and the Government issued orders in Letter No.2680/ PC/2018-



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5, dated 19.09.2018 directing the District Collector, Kancheepuram to take necessary action to grant higher start of pay to the Petitioners with effect from the date of joining duty verifying their educational qualification and the Government also instructed the Treasury Officer concerned to admit and honour the arrear claim of the said Writ Petitioners. Accordingly, the said Writ Petitioners have been given the said benefit.

8. It is submitted by the learned counsel that the petitioners are also similarly placed as the said Thiru.B.Raghu and others. Therefore they submitted representations to the respondents requesting the respondents to grant higher start of pay to the petitioners for possessing degree qualification at the time of their appointment by considering their case in the light of the orders passed by the Government in Letter No.2680/PC/2018-5 dated 19.09.2018, Finance (Pay Cell) Department. Since no order was passed, the petitioners approached this Court and filed W.P.No.28647 of 2019 with a prayer to issue a Writ of Mandamus directing the respondents to grant similar relief.

9. Learned counsel contended that in the said Writ Petition, this Court passed an order directing the first respondent to consider the representations



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of the petitioners. Pursuant to the above, the first respondent has issued an order in G.O.Ms.No.32, Finance (CMPC) Department, dated 24.02.2020 (the impugned order) rejecting their request to grant higher start of pay for the reasons stated in the said order. The impugned order is contrary to law and liable to be set aside. Aggrieved by the impugned order, the petitioners have approached this Court by filing this present writ petition.

10. A counter affidavit was filed on behalf of the respondents dated 08.02.2021.

11. Learned Additional Government Pleader appearing for respondents 1 and 2 submitted that Pay Grievance Redressal Cell (PGRC) observed that the higher start of pay granted to the Junior Assistants / Typists with a degree qualification is no longer warranted and therefore PGRC has recommended for dispensation of the grant of higher start of pay to the Junior Assistants/Typists to be recruited in future for possession of degree qualification in order to avoid unnecessary pay anomaly between the graduate Junior Assistants / Typists and the directly recruited Assistants. Accordingly, orders have been issued in the G.O.Ms.No.241, Finance (PC) Department Dated 22.07.2013 to dispense the higher start of pay granted to



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the incumbents recruited in future for the post of Junior Assistant / Typists for possessing degree qualification w.e.f. 01.04.2013.

12. Learned Additional Government Pleader drew the attention of this Court to the date of allotment order from TNPSC / received by DSE / forwarded to CEO/DEO in respect of the petitioners as detailed below:

Sl.No.	Name of the Petitioner (Thiru/Tmt)	Date of allotment order from TNPSC	TNPSC Letter received by DSE	Letter forwarded by DSE to CEO/DEO	Petitioner joining Date
1.	G.Harish	13.03.2013	19.03.2013	25.04.2013	26.04.2013
2.	M.Kumaran	13.03.2013	19.03.2013	25.04.2013	26.04.2013
3.	K.Thilakavathi	13.03.2013	19.03.2013	25.04.2013	26.04.2013
4.	V.Devasena	13.03.2013	19.03.2013	25.04.2013	26.04.2013
5.	K.Jayavel	13.03.2013	19.03.2013	25.04.2013	26.04.2013
6.	P.Rajkumar	13.03.2013	19.03.2013	25.04.2013	26.04.2013
7.	M.Valarmathi	13.03.2013	19.03.2013	25.04.2013	29.04.2013
8.	J.Meenakshi	13.03.2013	19.03.2013	25.04.2013	29.04.2013
9.	P.B.Geetha lakshmi	13.03.2013	19.03.2013	25.04.2013	27.04.2013

13. Learned Additional Government Pleader contended that the TNPSC allotment orders were received by the Directorate of School Education on 19.03.2013. After reasonable time was taken for verification of certificates, finalization of the place of vacancy as on date in the Districts followed, which allotment orders were sent to CEO/DEOs on 25.04.2013.



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Subsequently, they have issued the appointment / allotment of office orders to the petitioners who joined their duty from 26.04.2013 to 29.04.2013.

Hence, it is clear that the petitioners joined in the Government service after the prescribed cut-off date dispensing the higher start of pay in the post of Junior Assistant / Typists for possessing degree qualification.

14. It is further contended by the learned Additional Government Pleader that Thiru.B.Raghu and 2 others were allotted to Kancheepuram District Revenue Unit by the TNPSC letter dated 07.02.2013. After due verification, appointment orders have been issued vide proceedings of the PA(G) to Collector, Kancheepuram dated 05.04.2013. Subsequently, they joined duty on 08.04.2013 and 10.04.2013 respectively. Considering a reasonable delay occurred on the part of administration, it has been decided to grant higher start of pay for possessing degree qualification vide Government letter dated 19.09.2018. The reasons for sanction of higher start of pay to Thiru.B.Raghu and 2 others are that the TNPSC has sent the allotment letter to the Revenue department on 07.02.2013 itself, but the appointment / allotment letters were served on 05.04.2013. If the appointment order/allotment have been dispatched in time, they would have joined their duty well before 01.04.2013. Since there was no delay on the



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part of administration in the present case and reasonable time taken for appointment / allotment letters served to the petitioners cannot equate themselves with that of Thiru.B.Raghu and 2 others (W.P.No.30012 of 2013).

15. The Director of School Education has informed that the TNPSC letter dated 13.03.2013 were received in the Directorate of School Education, only on 19.03.2013 and only a reasonable time was taken for verification of certificates, finalization of the place of vacancy as on date in the Districts following which allotment orders were sent to District Educational Officers to issue the appointment orders.

16. The petitioners were permitted to join duty during April 2013 and there is no delay in forwarding the allotment letters on the part of administration and the time taken by the Director of School Education in forwarding the allotment letter to Chief Educational Officers / District Educational Officers and in turn to the petitioners is reasonable.

17. Learned Additional Government Pleader placed would then place reliance upon the judgment of the Hon'ble Supreme Court in the case of



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Veerayeeammal V. Seeniammal reported in **2002 (1) SCC 134**, wherein

the Hon'ble Supreme Court held as follows:

“The word "reasonable" has in law prima facie meaning of reasonable in regard to those circumstances of which the person concerned is called upon to act reasonably knows or ought to know as to what was reasonable. It may be unreasonable to give an exact definition of the word "reasonable". The reason varies in its conclusion according to idiosyncrasy of the individual and the time and circumstances in which he thinks. The dictionary meaning of the "reasonable time" is to be so much time as is necessary, under the circumstances, to do conveniently what the contract or duty requires should be done in a particular case. In other words it means, as soon as circumstances permit. In P.RamanathaAiyar's The Law Lexicon it is defined to mean:

"A reasonable time, looking at all the circumstances of the case; a reasonable time under ordinary circumstances; as soon as circumstances will permit; so much time as is necessary under the circumstances, conveniently to do what the contract requires should be done; so more protracted space than "directly"; such length of time as may fairly, and properly, and reasonably be allowed or required, having regard to the nature of the act or duty and to the attending circumstances; all these convey more or less the same idea."”

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

19. In the case on hand, the petitioners were selected pursuant to the Tamil Nadu Public Services Commission Notification for appointment to Group-IV services Examination (2007-2008 to 2012-2013) in the Tamilnadu Ministerial Service/Tamilnadu Judicial Ministerial Service/Tamilnadu Survey and Land Records Subordinate Service. The said Notification,



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namely, Notification No.14/2012 was issued on 27.04.2012. A total number of 10718 vacancies were notified. As per the said Notification, the petitioners submitted their online Applications and were called for the Written Examination and were selected in the said Written Examination and the Selection was intimated to them by the TNPSC Memorandum No.7027/PSD-B2/2010 dated 17.12.2012 and were allotted to the School Education Department.

20. The main contention of the petitioners is that, while TNPSC intimated to the petitioners about selection on 17.12.2012 itself, the appointment orders were issued to the petitioners only after 01.04.2013.

21. The petitioners were comparing themselves with the case of Thiru.B.Raghu and 2 others, Typists of the Revenue Department, Kancheepuram, wherein the higher start of pay given to them for possessing the Degree qualification at the time of appointment was withdrawn stating that in G.O.Ms.No.241, Finance (Pay Cell) Department dated 22.07.2013, the Government of Tamil Nadu had ordered that the grant of higher start of pay granted to the Graduate Junior Assistant/Typist for possession of degree qualification should be dispensed with, with effect from 01.04.2013 and that



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they joined duty after 01.04.2013 and that they were not eligible for the higher start of pay. Recovery of the incentive amounts already drawn by them was also ordered.

22. The said Thiru.B.Raghu and 2 others approached this Court and filed W.P.No.30012 of 2013 with a prayer to quash the recovery and for a direction to restore the higher start of pay which was withdrawn by the impugned order in that Writ Petition. This Court was pleased to admit the Writ Petition and stayed the recovery.

23. Thereafter, the Government considered the entire issue and rightly came to the conclusion that if the petitioners in the said Writ Petition were given appointment letters soon after the receipt of allotment list from the TNPSC on 07.02.2013, they could have joined duty before 01.04.2013 and that as the delay in forwarding the allotment is on the part of administration and as the Petitioners are all graduates at the time of selection, they are entitled for the higher start of pay for possessing Degree qualification and the Government issued orders in Letter No.2680/PC/2018-5, dated 19.09.2018 directing the District Collector, Kancheepuram to take necessary action to grant higher start of pay to the Petitioners with effect from the date



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of joining duty verifying their educational qualification and the Government also instructed the Treasury Officer concerned to admit and honour the arrear claim of the said Writ Petitioners. Accordingly the said Writ Petitioners in W.P.No.30012 of 2013 were given the said benefit.

24. The contention of the petitioners is that they are also similarly placed as the said Thiru.B.Raghu and others and their case should also be granted for higher start of pay since they are in possession of degree qualification at the time of their appointment by considering their case in the light of the orders passed by the Government in Letter No.2680/PC/2018-5 dated 19.09.2018, Finance (Pay Cell) Department. The petitioners gave representation and the same was rejected vide impugned order 24.02.2020.

25. In this case, though the petitioners were intimated about selection by the third respondent TNPSC as early as on 17.12.2012, according to the DSE, they have received the TNPSC letter dated 13.03.2013 only on 19.03.2013, the same was forwarded by DSE to CEO/DEO only on 25.04.2013, appointment orders were issued to the petitioners and they joined the duty only from 26.04.2013 to 29.04.2013.



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26. The TNPSC communication issued to the petitioner dated 17.12.2012 is extracted hereunder:

TAMIL NADU PUBLIC SERVICE COMMISSION

Memorandum No. 7027/PSPC.p27/2010, dated 17.12.2012

Sub: Recruitment (Direct) - Post of Junior Assistant/Field Surveyor/Draftsman - included in Group-IV Services Examination (2007 - 2008 to 2012 - 2013) in the Tamil Nadu Ministerial Service / Tamil Nadu Judicial Ministerial Service / Tamil Nadu Survey and Land Records Subordinate Service - Selection intimation - Regarding.



The Commission is happy to inform Thiru/Tmt/Selvi HARISH G (Reg No. 70111081) that he/she has been selected provisionally for appointment by direct recruitment to the post of Junior Assistant/Field Surveyor/Draftsman included in Tamil Nadu Ministerial Service / Tamil Nadu Judicial Ministerial Service / Tamil Nadu Survey and Land Records Subordinate Service on the results of the Group-IV Services Examination 2007-2008 to 2012 - 2013 and He/She has been allotted to the following Departmental Unit during the Counselling held on 28/02/2013

SCHOOL EDUCATION DEPARTMENT

2. The Appointing Authority to the said post is
The Director, School Education Department
Chennai, 600 006.

3. He may await further communication from the Appointing Authority with regard to the production of Certificate of Physical Fitness and his order of appointment.

4. Any change in his/her address may be intimated without fail to the Appointing Authority as well as to the Secretary, Tamil Nadu Public Service Commission, Fraser bridge Road, V.O.G Nagar, Chennai 600 003.

5. The mark obtained by him/her in the written examination is 217/30

6. He/She is directed to report to the Appointing Authority on 14/03/2013 to get the appointment order.

7. The selection is purely provisional, subject to the final outcome of the Writ Petitions pending on the files of the Hon'ble High Court, Madras / Madurai Bench of Madras High Court relating to this recruitment.

Encl: Nil

To
HARISH G
51/16B, ANNAMANGARA STREET
LITTLE KANCHIEPURAM
Pincode 1631503

Under Secretary

27. Hence there is a delay of 3 months on the part of TNPSC, third respondent herein in forwarding the allotment orders to the DSE and



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subsequently there is also a delay on the part of DSE in forwarding the same to CEO/DEO on 25.04.2013 i.e., after a delay of one month.

Thereafter the CEO/DEOS of School Education issued the appointment orders to the petitioners and subsequently the petitioners joined duty during the period from 26.04.2013 to 29.04.2013 which was after the prescribed cut-off date (01.04.2013) dispensing the higher start of pay for possessing degree qualification for the post of Junior Assistant.

28. It is pertinent to note the TNPSC letter sent to Director of School Education (DSE), receipt of letter by DSE and CEO/DEO as stated supra. The contention of the respondents is that reasonable time was taken for verification of certificates and finalization of the place of vacancy as on date in the Districts following which allotment orders were sent to CEO/DEOs on 25.04.2013.

29. Though the above selection, intimation communication was issued on 17.12.2012, the letter dated 13.03.2013 was received by DSE only on 19.03.2013 after a delay of 6 days. Hence, it is crystal clear and evident that there is substantial delay on the part of the third respondent



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herein. The DSE has received the TNPSC letter only on 19.03.2013, after 3 months from the date of selection list dated 17.12.2012 intimated/communicated to the petitioner, the letter was forwarded by DSE to CEO/DEO only on 25.04.2013 and appointment orders were issued to the petitioners and they joined the duty from 26.04.2013 to 29.04.2013.

30. It is pertinent to note that in the selection intimation communication sent by the TNPSC dated 17.12.2012. The petitioners were directed to report for getting appointment orders on the following dates:

SL.No.	Name of the petitioners	Date for receiving the appointment orders
1	Thiru.G.Harish	14.03.2013
2	Thiru.M.Kumaran	14.03.2013
3	Tmt.K.Thilakavathi	18.03.2013
4	Tmt.V.Devasena	19.03.2013
5	Thiru.K.Jayavel	14.03.2013
6	Thiru.P.Rajkumar	18.03.2013
7	Tmt.M.Valarmathi	18.03.2013
8	Tmt.J.Meenakshi	19.03.2013
9	Tmt.P.B.Geethalakshmi	18.03.2013



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31. The dates for receiving the appointment orders from the DSE are as stated supra all the dates are prior to 19.03.2013 and the letter was received by DSE only on 19.03.2013. Hence it is not possible for the petitioners to collect the orders in the said dates. Hence there is a delay on the part of TNPSC which is also evident from the above dates for receiving the appointment orders.

32. The TNPSC letter dated 13.03.2013 to that effect was received by the DSE only on 19.03.2013. Because of this there was a delay in verification of documents/certificates by the DSE which resulted in delay in forwarding the letter to CEO/DEO.

33. The delay is caused by both the third respondent TNPSC and the Directorate of School Education. The Directorate of School Education should have finalised the place of vacancy much before the receipt of the letter from the TNPSC on 19.03.2013. The DSE is very much aware of the vacancies available and should have identified the places of vacancy much earlier to the receipt of TNPSC letter on 19.03.2013 which they miserably failed to do so in the case of the



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petitioners. They should not have waited to finalize the place of vacancy till the letter is received from the TNPSC and which caused delay for which the petitioner cannot be allowed to suffer for no fault on them.

34. The order passed by the Government in letter No.2680/PC/2018-5, Finance (Pay Cell) dated 19.09.2018 in regard Thiru.B.Raghu and others case is squarely applicable in the case of the petitioners who are similar to the petitioners in W.P.No.30012 of 2013 (Raghu and others). No doubt there is a delay on the part of the DSE in forwarding the letter to the CEO/DEO offices on 25.04.2013. On the whole, there is a delay of 4 months in issuing the appointment orders to the petitioners and as a result they joined duty from 26.04.2013 to 29.04.2013 after prescribed cut-off date (01.04.2013) dispensing the higher start of pay for the post of Junior Assistant for possessing degree qualification with effect from 01.04.2013 vide G.O.Ms.No.241, Finance (Pay Cell) Department dated 22.07.2013.

35. This Court is of the considered view that on the whole there is a delay of 4 months that is in two stages after the selection list intimation/communication to the petitioners dated 17.12.2012, which are



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as follows:

- 1. Letter from TNPSC dated 13.03.2013 received by DSE on 19.03.2013 (17.12.2012 [date of selection communication / intimation sent to the petitioners] to 19.03.2013) = 3 months (1st stage)**
- 2. Letter forwarded by DSE to CEO/DEO on 25.04.2013 (19.03.2013 to 25.04.2013 = 1 month (2nd stage)**

Hence there is a overall delay of 4 months on the part of Tamil Nadu Public Service Commission (TNPSC) and the Directorate of School Education (DSE).

36. Therefore, the impugned order of the first respondent in G.O.Ms.No.32, Finance (CMPC) Department, dated 24.02.2020 is liable to be quashed, accordingly the same is hereby quashed. The respondents are directed to grant the petitioners higher start of pay at two stages above the minimum of scale of pay for possessing degree qualification at the time of selection by the TNPSC in the light of the orders passed by the first respondent in Letter No.2680/PC/2018-5, Finance (Pay Cell) dated 19.09.2018 and grant them all consequential benefits within a period of three months from the date of receipt of a copy of this order.



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J.SATHYA NARAYANA PRASAD, J.

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In the result, the writ petition stands allowed with the above observations and directions. No costs.

21.12.2024

cda

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Speaking Order

Neutral Citation : Yes

To

- 1.The Principal Secretary to the Government,
The Government of Tamil Nadu,
Finance (CMPC) Department,
Fort St.George, Chennai – 600 009.
- 2.The Chief Educational Officer,
Kancheepuram, Kancheepuram District.
- 3.The Secretary,
Tamil Nadu Public Service Commission.
TNPSC Road, Chennai – 600 003.

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