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W.P.No.21861 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2024

CORAM:

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

W.P.No.21861 of 2022
and W.M.P.No.20879 of 2022

The Tamil Nadu Government Collegiate
Computer Programmers Association,
representation by its President Tr.V.Jeyaprakasam ... Petitioner

-Vs-

The Additional Chief Secretary to Government
Finance (CMPC) Department,
Fort St George, Chennai 9. ... Respondent

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent in connection with the impugned order passed by him in GO.Ms.No.241 Finance (CMPC) Department, dated 27.10.2021 and quash the same and direct the respondent to revise the scale of the Asst Programmers of Collegiate Education Department by granting scale of pay at Rs.9300-34800+GP 4500 at par with Asst Programmers, Govt Data Centre, Department of Industries and Commerce, PWD within a reasonable time.

For Petitioner : Mr.K.Venkataramani, Senior Counsel
for Mr.M.Muthappan

For Respondent : Mr.U.M.Ravichandran
Special Government Pleader

ORDER



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This Writ Petition has been filed challenging the order passed by the respondent in GO.Ms.No.241 Finance (CMPC) Department, dated 27.10.2021, thereby refused to revise the scale of pay of the Assistant Programmers of Collegiate Education Department by granting scale of pay at Rs.9300-34800+GP 4500 on par with Assistant Programmers, Govt Data Centre, Department of Industries and Commerce, PWD.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The members of the petitioner Association were appointed as Programmer in the cadre of Laboratory Assistants in various Government Colleges. The educational qualification prescribed for the post is B.Sc Computer Science or B.Sc Physics or Statistics as main subject with one year certificate course in Computer Application in a recognized College/ Institute or Diploma in Computer Science from recognized Polytechnic. The Official Committee in the year 2009 has granted revised scale of pay of Rs.5200-20200+GP 1900. Similar posts were also available in other departments of State of Tamil Nadu. All other departments and the petitioner Association submitted representation and accordingly, their posts were re-designated as Assistant Programmer. In the



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present post, persons who are qualified with degree with Diploma in Computer Application, PG Degree with Diploma in Computer Science and PG degree with M.Phil and Diploma in Computer Science from recognized polytechnic are working in the Department. As per the VI Pay Commission, the scale of pay is Rs.5200-20200-Gr.pay 1900/- Though they had possessed higher qualification, the scale of pay was not revised so far.

4. Whereas, for those who are working in other Departments in the post of Assistant Programmer, the scale of pay was revised and they are getting Grade Pay of Rs.4500/-. Therefore, the petitioner Association made representation to One Man Commission on pay revision to merge with the post of Lab Assistant, Programme Assistant, Programmer into a single nomenclature as Computer Programmer. The request made by the petitioner Association was considered by One Man Commission which had taken into consideration the qualification, nature of work and the job responsibilities for the Lab Assistant with that of the Computer Programmer and found that the post of Computer Programmer in the cadre of Lab Assistant deserves equal pay with that of the Programme Assistant in the same Department.

5. Hence, One Man Commission recommended that the post of



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Computer Programmer in the cadre of Lab Assistant may be revised on par with the Programmer Assistant/Programme and re-designated the post of Assistant Programmer. Accordingly, the scale of pay was fixed as per GO.Ms.No.271 Finance (Pay Cell) Department, dated 26.08.2010 was revised in G.O.Ms.No.262, Finance (Pay Cell) Department, dated 22.07.2013 as Rs.9300-34800+Gr.Pay Rs.4400/-. Accordingly, the post of Computer Programmer, Programmer Assistant and Lab Assistant in computer wing/computer science department in the college education department was re-designated as Assistant Programmer as per G.O.Ms.No.390 Finance (Pay Cell) Department dated 05.10.2010. In the Industries and Commerce Department, similar post of Assistant Programmer was available. As per the One Man Commission's report, the duties and responsibilities of the Assistant Programmer were recommended for the revision of scale of pay. Accordingly, their scale of pay was revised as Rs.9300-34800+Gr.Pay 4500/- with effect from 01.01.2006 and with monetary benefits from 01.08.2010. The duties and responsibilities of the Assistant Programmer in the Industries and Commerce Department and the post of Assistant Programmer in the College Education Department are one and the same. Therefore, the One Man Commission also looked into the pay anomalies, but granted Grade Pay of Rs.4500/- in the case of Assistant Programmer working in the Industries and Commerce Department.



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Therefore, the petitioner Association made representation in respect of pay anomaly. It was not considered and as such, the petitioner Association approached this Court by way of writ petition in W.P.No.31510 of 2014 and this Court, directed the respondent to pass appropriate orders within a stipulated time. However, the respondent rejected the claim of the petitioner. It was also challenged by the petitioner Association in W.P.No.23086 of 2015 and this Court, by an order dated 27.07.2021 set aside the order and remanded the matter to the respondent for fresh consideration and to pass orders within a period of three months. However, once again, the respondent rejected the claim of the petitioner by an order dated 27.10.2021. Hence, this writ petition.

6. The learned Senior Counsel appearing for the petitioner submitted that the petitioner Association submitted a detailed representation and categorically stated that the duties of the Computer Programmer in the cadre of Lab Assistant working in Government Arts and Science Colleges includes teaching. Even then, it was not considered and the respondent passed a non speaking order. In fact, the Director of Collegiate Education vide communication dated 20.05.2015 had recommended to the Government that based on the educational qualification of other departments viz., Government Data Centre, Department of Industries and Commerce and Public Works Department, the scale of pay of the post of



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Assistant Programmer in Collegiate Education may be revised from Rs.9300-34800+Grade Pay of Rs.4400/- to Rs.9300-34800+Grade pay of Rs.4500/-.

Even then, it was not considered and mechanically rejected the claim of the petitioner.

7. A perusal of the counter filed by the respondent and the learned Special Government Pleader appearing for the respondent submitted that the duties and responsibilities of Assistant Programmers in Collegiate Education, Government Data Centre Department, Industries and Commerce Department and Public Works Department are completely different and the Assistant Programmers in Collegiate Education Department is no way involved in programming skills work as done by other department Assistant Programmers especially in Public Works Department and Data Centre. In other Departments, the Assistant Programmers are reinstated with programming work. Whereas, the job of the members of the petitioner Association ends with maintaining the computers in Computer Lab and help the students in practical classes.

8. A perusal of the representation submitted by the petitioner Association revealed that they categorically mentioned the duties and responsibilities in the Department of Computer Science Practical classes which are as follows:-



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“ 1. Maintenance of computer systems, network administration and laboratory accessories.

2. Installation of different operating systems like Windows, HP, Linux, Xenix, etc compilers and all application software needed for Under Graduate Programmes B.Sc/B.C.A and Post Graduate Programmes like M.C.A., M.Sc (Computer Science).

3. To assist the students for solving the problems during their practical classes.

4. To assist the students in the project work assigned by the lecturers.

5. Software and hardware trouble shooting.

6. Rectifying the errors during the practical class.

7. And other responsible work assigned by the HOD of Computer Science.”

9. According to the respondent, the duties and responsibilities of

Government Data Centre Computer Programmer are as follows:-

“i) The portion obtained through the website Monitoring and verification of number allotment works reviewing of the applications seeking new pension scheme account numbers at two stages.

ii) Monitoring and verification of number allotment works by considering applications seeking new account numbers MGR Mid-Day Nutritious food scheme / Integrated Child Development Scheme employees received through website.

iii) Contributory Pension Scheme related suggestions get it to cps.gdc@gmail.com and resolved.

iv) For MGR Mid Day Nutritious food scheme / Integrated Child Development Scheme through email nmpicds@gmail.com for solution.

v) To carry out the following corrections in the account number of MGR Mid-Day Feeding Scheme, Integrated Child Development and Account Number of Contributory Pension Scheme, Employees Name, Date of Birth, Date of Joining, Suffix, Department, Sex, Nominee.



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vi) Every month details of the subscription amount of employees in all treasuries are received through text file (Noon Meal Programme / Integrated Child Development Scheme) and processed.

vii) Downloading credit abstract online (Noon Meal Programme / Integrated Child Development Scheme) of all treasuries every month through web site.

viii) Provision of user name & password for New Contribution Pension and MGR Mid-Day Meal / Integrated Child Development Work Scheme works in all Treasuries.

ix) Liaise with Local Fund Audit Department and all Local body to receive audit weekly report and send to Integrated Division.

x) Backup and maintenance of data in Noon Meal Programme/ Integrated Child Development Scheme.

xi) To design all software based on Noon Meal Programme/ Integrated Child Development Scheme and provide proper guidance for testing the designed software.”

10. Though some of the duties and responsibilities differs between the Assistant Programmers of Collegiate Education and the Department of Government Data Centre, insofar as the Computer Programmer, the duties and responsibilities are similar to each other. That apart, in addition to other responsibilities, they are also assisting the students for solving problems through their practical classes. They are also teaching to the students. That apart, the duties and responsibilities are not the criteria for same cadre post for fixation of scale of pay.

11. Admittedly, the persons who are working in the Collegiate Education



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and who are working in other Departments as Computer Programmers, the cadre is one and the same. Therefore, there may not be any discrimination between the Department for the same cadre while fixing their scale of pay. Further, the Director of Collegiate Education recommended to the Government that based on the educational qualification in other departments of Government Data Centre, Department of Industries and Commerce and Public Works Department in the scale of pay of Assistant Programmers in Collegiate Education may be revised from Rs.9300-34800+GP 4400 to Rs.9300-34800+GP 4500. It was recommended on the basis of the duties and responsibilities performed by the petitioner Association on par with the duties and responsibilities in other Government Department. Further, the Government, by an order dated 26.06.2014 considered the re-designation revision of scale of pay of Mechanic, Gr.I in Collegiate Education based on the recommendations of the Director of Collegiate Education, Chennai and revised the scale of pay on par with their counter part with School Education Department. When the duties and responsibilities and the education qualification are one and the same, there cannot be any discrimination to grant the revise of scale of pay in the post on par with the similarly placed persons. Therefore, there is absolutely no justifiable grounds nor any valid reasons to reject the claim of the petitioner seeking revised scale of pay.



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WEB COPY 12. In view of the above, the impugned order cannot be sustained and is liable to be quashed. Accordingly, the impugned order passed by the respondent in GO.Ms.No.241 Finance (CMPC) Department, dated 27.10.2021, is hereby quashed. The respondent is directed to revise the scale of pay of Assistant Programmers of Collegiate Education Department by granting scale of pay at Rs.9300-34800+GP 4500 on par with Assistant Programmers, Govt Data Centre, Department of Industries and Commerce, Public Works Department, within a period of eight weeks from the date of receipt of a copy of this order.

13. Accordingly, this writ petition is allowed. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

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Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
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To

The Additional Chief Secretary to Government,
Finance (CMPC) Department,
Fort St George, Chennai 9.



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G.K.ILANTHIRAIYAN. J,

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