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W.P. Nos.28747, 28748 and 28749 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos. 28747, 28748 and 28749 of 2014

P.Sivathas

... Petitioner
in W.P.No.28747 of 2014

N.Gowthaman

... Petitioner
in W.P.No.28748 of 2014

T.R.Arun

... Petitioner
in W.P.No.28749 of 2014

Vs.

The Secretary to Government
Law Department
Fort St.George,
Chennai – 600 009.

... Respondent
(in all W.Ps)

Common Prayer : Writ Petitions filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondent to fix the petitioners basic pay at Rs.25600/- (Rs.18600/- + Rs.7000/-) in the

Page No.1/11



W.P. Nos.28747, 28748 and 28749 of 2014

revised Pay Band of Rs.15600 + 39100 + 7000 AGP, by maintaining the difference between Lecturer and Lecturer (Senior Scale).

For Petitioners : Mr.K.Rajasekaran
(in all W.Ps)

For Respondent : Mr.P.Kumaresan
Additional Advocate General
(in all W.Ps)

COMMON ORDER

Issue that arises for consideration in all these writ petitions is one and the same and as such, all these writ petitions are taken up together for hearing and are being disposed of by this common order.

2. The petitioners herein participated in the recruitment process in response to a notification dated 30.03.2010 issued by the Teachers' Recruitment Board for filling up the post of Lecturers (Senior Scale) / Lecturer (Senior Scale (Pre-Law)) for the Government Law Colleges (2007-08 and 2009-10). On being successful in the said selection process, the petitioners herein were



W.P. Nos.28747, 28748 and 28749 of 2014

selected as Lecturers (Senior Scale) in different subjects, through proceedings dated 28.06.2012 in the pay scale of Rs.10000–325–15200 (Pre-revised scale).

Subsequently, the petitioners herein along with 8 others have been appointed as Lecturer (Senior Scale) through G.O.Ms.No.422, Law (LS) Department, dated 09.07.2012 and accordingly, they have been working as such. The petitioners in these writ petitions are making a claim for revised pay scale and Fitment of their pay in terms of G.O.Ms.No.350, Higher Education (H1) Department, dated 09.09.2009 by duly fixing their pay in terms of Fitment Table – II and in terms of Rule 4(1) of Tamil Nadu Revised Scales of Pay Rules, 2009 issued under G.O.Ms.No.234, Finance (Pay Cell) Department, dated 01.06.2009.

3. According to the learned counsel for the petitioners, the petitioners are entitled for fixing their pay in terms of Fitment Table-II issued in G.O.Ms.No.350, Higher Education (H1) Department, dated 09.09.2009. In support of his contentions, he placed reliance on Rule 9 of the Tamil Nadu Revised Scales of Pay Rules, 2009 issued under G.O.Ms.No.234, Finance (Pay Cell) Department, dated 01.06.2009, as it was originally existing. The said



W.P. Nos.28747, 28748 and 28749 of 2014

Rule 9 was amended subsequently through G.O.Ms.No.258, Finance (Pay Cell) Department, dated 23.06.2009. According to the learned counsel for the petitioners, the said amendment made to Rule 9 through G.O.Ms.No.258, Finance (Pay Cell) Department, dated 23.06.2009 is by way of addition to the existing Rule and therefore, the petitioners are entitled for the benefits under original Rule 9 as was existing in the Rules issued under G.O.Ms.No.234, Finance (Pay Cell) Department, dated 01.06.2009.

4. The entire basis for claim made by the petitioners in these writ petitions is the said Rule 9 which was existing in the Tamil Nadu Revised Scales of Pay Rules 2009, as issued under G.O.Ms.No.234, Finance (Pay Cell) Department, dated 01.06.2009.

5. This Court has carefully perused G.O.Ms.No.258, Finance (Pay Cell) Department, dated 23.06.2009, whereby Rule 9 of the Tamil Nadu Revised Scales of Pay Rules, 2009 was amended. A perusal of the same discloses that, when the amendment that was carried out to Rule 9 is by way of substituting



W.P. Nos.28747, 28748 and 28749 of 2014

the original Rule 9, but not adding to the existing Rule 9. The same is clear from the narration made in G.O.Ms.No.258, dated 23.06.2009 for amending the Rule-9. That being the case, the original Rule 9 as was existing is no more available after issuance of G.O.Ms.No.258, Finance (Pay Cell) Department, dated 23.06.2009. Therefore, the entire basis for the claim of the petitioners is not available.

6. Be that as it may, along with the petitioners, one other person by name Dr.E.Murugesan was also appointed under the very same Government Order dated 09.09.2009 and he made a claim for identical relief before this Court by filing the writ petition in W.P.No.13614 of 2019 and the learned Judge of this Court, after having examined the matter in detail, declined the relief by passing an order dated 01.12.2022. The relevant paragraph of the said order is here under :

"3. The claim of the petitioner is that he is entitled to the grade pay of Rs.7,000/- in the designated post of an Assistant professor. However, the said grade pay was not granted to him and in this regard, the petitioner submitted a representation to the



W.P. Nos.28747, 28748 and 28749 of 2014

authorities, which was not considered and consequently he had chosen to file the present writ petition.

4. The learned Government Advocate appearing on behalf of the respondents contended that the petitioner is not eligible for the revised scale of pay as per G.O.Ms.No.350. His pay was fixed as per the pay fixation formula applicable to the cadre of the writ petitioner.

5. The petitioner herein was selected through the Teachers Recruitment Board by direct recruitment for the post of Lecturer (Senior Scale) (Now re-designated as Assistant Professor) in the Government Law Colleges and was appointed as Lecturer (Senior Scale) in G.O.Ms.No.422, Law (LS) Department, dated 09.07.2012 in the Pay Band of Rs.15600-39100+AGP Rs.7000/- in the Government Law College, Thiruchirappalli. He joined the said post on 13.07.2012. Subsequently, he was transferred to the Government Law Colleges at Madurai and Remanathapuram. He filed this Writ Petition while working as an Assistant Professor in the Government Law College, Ramanathapuram. At present, he is working in the Government Law College, Madurai.

6. G.O.Ms.No.350, Higher Education (H1) Department, dated 09.09.2009. wherein it is clearly stated that the pay fixation formula as applicable to the State Government



W.P. Nos.28747, 28748 and 28749 of 2014

employees shall be adopted for teachers and equivalent cadres working in the Government Colleges governed by the University Grants Commission and the above mentioned amendment issued in G.O.Ms.No.258, Finance (Pay Cell) Department, dated 23.06.2009, and in view of the fact that since the petitioner herein who was selected as Lecturer (Senior Scale) and appointed through the Teachers Recruitment Board, did not join service prior to 01.06.2009 but had joined only on 13.07.2012, his pay was fixed as Rs.15600+AGP Rs.7000/- in the revised pay band of Rs.15600~39100 + AGP Rs.7000/- by the Principal of the Government Law College, Thiruchirappalli.

7. Fitment Table No.2 in Appendix-III to G.O.Ms.No.350, Higher Education (H1) Department, dated 09.09.2009, relates to the fixation of Pay of incumbent Lecturers (Senior Scale) who were in service on 01.01.2006, since 24% of the Dearness Allowance drawn by the Lecturers (Senior Scale), on 01.01.2006, in the pre-revised scale of Rs.10,000 ? 325 ? 15200/- has been taken into account for fixation in the revised pay band of Rs.15600-39100+AGP Rs.7000/~. In the instant case, the petitioner herein had joined as Lecturer (Senior Scale) only on 13.07.2012 and hence, Fitment Table No.2 in Appendix-III to G.O.Ms.No.350, Higher Education (H1) Department, dated



W.P. Nos.28747, 28748 and 28749 of 2014

09.09.2009 shall not apply to him. Instead, only the amendment issued in G.O.Ms.No.258, Finance (Pay Cell) Department, dated 23.06.2019, will apply to the petitioner herein for fixation of his pay in the revised pay band.

8. The method of multiplying the existing basic pay in the pre-revised scale as on 01.01.2006 by a factor of 1.86 and rounding of the resultant figure to the next multiple of 10 shall apply only to the incumbent Lecturers (Senior Scale), who were in service as on 01.01.2006, and fresh recruits appointed on or after 01.01.2006 and before 01.06.2009, and does not apply to the petitioner herein who joined as Lecturer (Senior Scale) only on 13.07.2012.

9. In view of the facts, the petitioner's case is not falling between the ambit of the Government Order issued in G.O.Ms.No.350, since the petitioner joined as a Lecturer (senior scale) only on 13.07.2012. This Court is of the considered opinion that Judicial Review in the matter of fixation of pay is limited. Only if there is any grave violation of Rules or Government Orders established, then alone the Court can interfere and not otherwise. In the present case, the respondents have stated that the Government Order issued in G.O.Ms.No.350 is not applicable to the writ petitioner since he was appointed on



W.P. Nos.28747, 28748 and 28749 of 2014

13.07.2012, therefore, the question of considering the case for revision of pay for the petitioner would not arise at all. "

7. The petitioners herein are also similarly situated as that of the petitioner in the above writ petition and the basis for the relief sought in the present writ petitions is also one and the same. This Court has already dealt with the very same issue and passed the final order and as this Court is in full agreement with the reasoning given by the learned Judge in the above order.

8. In the light of the above, this Court is also of the considered view that the petitioners herein are also not entitled for the relief as sought for in the present writ petitions and accordingly, these Writ Petitions are dismissed. There shall be no order as to costs.

22.08.2024

Index : Yes/No
Speaking Order : Yes/No
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Page No.9/11



WEB COPY



W.P. Nos.28747, 28748 and 28749 of 2014

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Page No.10/11



WEB COPY



W.P. Nos.28747, 28748 and 28749 of 2014

MUMMINENI SUDHEER KUMAR, J.

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W.P.Nos.28747, 28748 and 28749 of 2014

22.08.2024

Page No.11/11