



W.P.No.10037 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2024

CORAM

THE HON'BLE MRS. JUSTICE N.MALA

W.P.No.10037 of 2017

and

W.M.P.No.11037 of 2017

P.Mohan
S/o G.Pounraj,
Vocational Instructor,
National Higher Secondary School,
Manargudi, Thiruvarur District.

... Petitioner

Vs.

1. Government of Tamil Nadu,
Rep. By Principal Secretary to Government,
Finance (CMPC) Department,
Fort St.George, Chennai – 9.
2. The Secretary,
Government of Tamil Nadu,
School Educational Department,
Fort St. George, Chennai – 9.
3. The Director of School Education,
College Road, Chennai – 6.
4. The Joint Director of School Education (Vocational)
Thiruvarur, Thiruvarur District.



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5. The Chief Educational Officer,
Thiruvarur, Thiruvarur District.

6. The District Educational Officer,
Thiruvarur, Thiruvarur District.

...Respondents

PRAYER: The Writ Petition filed under Article 226 of the Constitution of India, praying 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 in insofar as it gives monetary benefits to the petitioner with effect from 01.04.2013 and in insofar it restricts the selection grade scale of pay of the Vocational Instructor at Rs.9300-34800+4800 GP and insofar the petitioner is concerned and issue a consequential direction to the respondents 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 1.1.2011 and fix the petitioner's selection grade at Rs.15,600-39100 +5400 from 1.1.2011 with monetary benefits and grant all consequential benefits to the petitioner.

For petitioner : Mr.R.Saseetharan

For respondent : Mr.S.Prabhakaran, GA



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ORDER

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The writ petition has been filed praying to issue a Writ of Certiorarified Mandamus to call 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 in insofar as it gives monetary benefits to the petitioner with effect from 01.04.2013 and in insofar it restricts the selection grade scale of pay of the Vocational Instructor at Rs.9300-34800+4800 GP and insofar the petitioner is concerned and issue a consequential direction to the respondents 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 1.1.2011 and fix the petitioner's selection grade at Rs.15,600-39100 +5400 from 1.1.2011 with monetary benefits and grant all consequential benefits to the petitioner.



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2. The case of the petitioner is as follows:

(i) The petitioner was appointed as single part time Vocational Instructor on 01.03.1986, in Accountancy and auditing on consolidated pay at National Higher Secondary School, Mannargudi, Thiruvallur District. Thereafter, he was appointed as double part time Vocational Instructor on 21.08.1989. Later, he was absorbed as full time Vocational Instructor with effect from 16.10.1992 in the time scale of pay of Rs.1400-2600 by the Correspondent and Secretary on 05.02.1993.

(ii) The Joint Director of School Education, vide order dated 10.7.2007, regularised the petitioner's service in the post of Vocational Instructor Grade I with effect from 16.10.1992. Thereafter, he was granted selection grade scale of pay from 16.10.2002 counting the service from the date of regularisation in the scale of pay of Rs.6500-10500, which is the selection grade scale of pay for the post of B.T Assistant as per the recommendations of the Official Pay Committee introduced with effect from 01.1.1996 pursuant to the proceedings of the Chief Educational Officer, Thiruvallur by proceedings dated -.05.2009.



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The petitioner's selection grade scale of pay in the revised scale of pay with effect from 01.1.1996 was fixed at Rs.9300-34800 + GP 4600.

(iii) According to the petitioner, the scale of pay of Vocational Instructors appointed in Higher Secondary Schools to teach Vocational subjects in XI and XII Standards, as provided in the series of Government orders in G.O.Ms.No.712 dated 28.05.1990; G.O.Ms.No.967 dated 16.10.1992; and G.O.Ms.No.834 dated 23.09.1994, was equal to B.T Assistant. The above said scale of pay was given as per the recommendations of the Fifth Pay Commission with effect from 01.6.1988. The next revised scale of pay was introduced with effect from 01.1.1996, in which, the scale of pay fixed for BT Assistants was Rs.5500-175-900 and the very same pay scale was fixed for the Vocational Instructors in the High Secondary Schools like the petitioner treating them at par with the B.T Assistants scale wise.

(iv) The Government Order,, in G.O.Ms.No.6 dated 04.1.2000, framed Ad hoc Rules for various subjects in the High Secondary Schools. In the said Rules, the General and Special rules applicable to the holders of permanent post in the Tamil Nadu School Education



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Subordinate Service was made applicable to the vocational Instructors.

The said Rules, framed under Article 309 of The Constitution of India, also treated the Vocational Instructors on par with the B.T. Assistants.

(v) The Government of Tamil Nadu, vide G.O.Ms.No.234 dated 01.6.2009, introduced revised scales of pay to its employees as per the recommendations of the Official Pay Committee constituted by the State Government and introduced the system of pay band with grade pay. The above said Government Order dated 01.6.2009 stated that the revision of pay scales was introduced with effect from 01.1.2006. The pay band for the post of B.T Assistant was fixed at Rs.9300-34800/- with grade pay of Rs.4400/-. The Government did not issue any specific order for fixation of pay in the Selection grade and the Special grade scale of pay in the above said Government Order dated 01.6.2009.

(vi) By G.O.Ms.No.23 dated 12.1.2011, the Government of Tamil Nadu revised and increased the Grade Pay from Rs.4,400/- to Rs.4,600/- for the B.T Assistants. The above said Government Order was passed considering the grievance of the Government servants. After the said revision and increase, the B.T Assistants became entitled to the



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scale of pay of Rs.9300-34800 + GP 4600. In the above said Government Order, it was specifically stated that the revision of the above said pay was given with notional effect from 01.1.2006, and the monetary benefits from 01.1.2011. The Vocational Instructors were not specifically referred/ included in G.O.Ms.No.23 dated 12.1.2011.

(vii) Hence, the Vocational Instructors expressed their grievance to the Government. The Government accepted the grievance of the Vocational Instructors and issued G.O.Ms.No.263 dated 22.7.2013. In the said Government Order, the scale of pay of the Vocational Instructors was fixed on par with the B.T Assistants. The Government revised the pay of the Vocational Instructors at Rs.9300- 34800 + GP 4600 from Rs.9300 - 34800 + GP 4400. While the Government accepted the equivalence and increased the notional benefits from 01.1.2006, as in the case of B.T Assistants, monetary benefits were granted only from 01.4.2013.

(viii) Thereafter, the Government of Tamil Nadu, by the letter dated 22.8.2014, issued guidelines for fixing the selection and the special grade scale of pay to the Vocational Instructors and increased their pay



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on par with the B.T. Assistants at Rs.9300 - 34800 + GP 4600. In the said letter also it was stated that the increase would be effective from 01.4.2013 as per G.O.Ms.No.263 dated 22.7.2013. In view of the said Government order, the pay of the Vocational Instructors in the selection grade was reduced and fixed from 01.4.2013 and not from 01.1.2011 as directed in G.O.Ms.No.263 dated 22.7.2013. Hence, the petitioner challenged G.O.Ms.No.263 dated 22.7.2013 and the consequential letter dated 22.8.2014.

3. The respondents filed a detailed counter wherein, it was stated *inter alia* as follows:

Both the Government Orders in G.O.Ms.No.263 Finance (PC) Department dated 22.7.2013 and the Government Letter No.66858/CMPC/ 2013-2 dated 22.8.2014 became ineffective consequent upon the issuance of G.O.Ms.No.306 Finance (PC) Department dated 12.9.2018, in which, the Selection Grade to the Vocational Teachers has been stepped up to Rs.15600-39100 + GP 5400 with effect from 01.1.2006 with the monetary benefit from 01.4.2013.



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The relevant Government order has been issued in pursuance of the directions of the Madurai Bench of this Court in W.P.(MD) No.2654 of 2018 etc. batch in the common order dated 19.3.2018. Hence, the request of the petitioner was complied with except the date of monetary benefits and therefore the writ petition had no merits and the same deserved to be dismissed.

4. This Court carefully considered the submissions made by the learned counsel on either side and perused the materials available on record and more particularly the impugned order.

5. By G.O.Ms.No.23 dated 12.1.2011, the Government of Tamil Nadu revised the scale of pay of certain categories of teachers employed in the School Education Department and one of the categories was B.T Assistant and the scale of pay was revised at Rs.9300-34800 + 4600 GP. While revising the scale of pay for the categories of teachers covered in G.O.Ms.No.23, the monetary benefits were extended from 01.1.2011 though the notional benefits were granted from 01.1.2006.



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6. It is the grievance of the petitioner that all through the scale of pay of the petitioner was fixed on par with the B.T. Assistants but, because of the failure of the respondents in not including the category of Vocational Instructor in G.O.Ms.No.23, the petitioner had to approach the PGRC. In pursuance of the recommendations of the PGRC, G.O.Ms.No.263 dated 22.7.2013 was passed and while recognizing the equivalence of the Vocational Instructors with the B.T.Assistants and fixing the scale of pay of the Vocational Instructors on par with the B.T.Assistants, the respondents erroneously restricted the implementation of the monetary benefits from 01.4.2013 instead of implementing it from 01.1.2011, as was done in the case of B.T. Assistants under G.O.Ms.No.23 dated 12.1.2011.

7. The learned counsel for the petitioner, relied on the order dated 16.4.2015 passed by a learned Single Judge of this Court in *W.P.No.5407 of 2014* in the case of *A.Arivudaiyappan & others Vs. Government of Tamil Nadu & Others* and contended that the petitioner



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was entitled to monetary benefits on par with the B.T. Assistants with effect from 01.1.2011.

8. The relevant portion of the said order dated 16.4.2015 is extracted and it reads as follows:

“3.7. From a perusal of the impugned order dated 22.07.2013, it is seen that the Committee did not specifically states that the petitioners and other similarly placed persons are eligible for monetary benefit only from the date of the Government order. The purpose for referring to the decision of the Committee was to consider as to whether the posts held by the petitioners viz., Senior Lecturers/Lecturers were equivalent to the posts of Headmasters of Higher Secondary Schools/District Educational Officers/P.G. Assistants. This having been done, the petitioner sought to have been granted the same benefit which was granted vide G.O.Ms.No.23 dated 12.1.2011. However, the Government, while passing the impugned order, granted the monetary benefit only with effect from 01.04.2013. Therefore, the petitioners are aggrieved by that portion of the 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



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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 are automatically entitled for the revised scales of pay pursuant to G.O.Ms.No.23, Finance (Pay Cell) Department dated 12.1.2011. 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 12.1.2011. The petitioners with effect from 01.1.2011 as extended to the incumbents holding the posts with identical scale of pay. That apart, the impugned order dated 22.7.2013, does not assign any reason as to why the monetary benefits are restricted and it was given only from 01.4.2013. This is also one more reason to hold that the Government Order dated 22.7.2013 to that extent is unsustainable. In fact, the principal of the petitioners Institution initially rightly



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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 22.7.2013, insofar as it restricts the monetary benefits with effect from 01.4.2013 is quashed. Consequently, the impugned order of recovery dated 06.1.2014 also stands quashed. Since the petitioners obtained an order of interim stay of the impugned proceedings by order dated 24.2.2014, no recovery has been effected. The respondents are directed to extend the monetary benefits with effect from 01.1.2011 as extended to the incumbents holding the post with identical scales of pay as given in G.O.Ms.No.23 dated 12.1.2011.

9. The above said order dated 16.4.2015 passed by the learned Single judge of this Court was confirmed by a Division Bench of this Court in W.A.No.2234 of 2018 dated 08.2.2023. In my view, the said judgment applies in all four corners to the facts of this case.



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10. The grievance of the Vocational Instructors were referred to the Pay Grievance Redressal Committee (PGRC) which found that the Vocational Instructor's post was equivalent to the B.T Assistants Post. The Committee in its report did not restrict the payment of monetary benefits from the date of Government order. From the records, it is clear that indisputably the Vocational Instructors were always treated on par with the B.T Assistants and paid the scales of pay applicable to the later. Ergo, for the mistakes committed by the Government in not including the post of Instructors in G.O.Ms.No.23 dated 12.1.2011, while revising the scales of pay of certain categories of teachers mentioned therein, the petitioner ought not to suffer. In the absence of any justifiable reasons for restricting the monetary benefits from the date of Government order, I find that the contention of the petitioner that he should be extended the monetary benefits from 12.01.2011 is fair and acceptable.

11. Accordingly, para 3 of the impugned Government Order is set aside. Further, a direction is issued to the respondents to grant the monetary benefits to the Vocational Instructors with effect from



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01.1.2011 as extended to the B.T Assistants under G.O.Ms.No.23 Finance (Pay Cell) Department dated 12.1.2011.

12. Insofar as the second part of the prayer in the writ petition is concerned, it has already been redressed by the Government vide G.O.Ms.No.306 Finance (PC) Department dated 12.9.2018 but with effect from 01.04.2013 as far as monetary benefits are concerned. As absolutely no reasons are cited for restricting the monetary benefits from 01.04.2013, I find no justification for the restriction and so, the petitioner would be entitled to the monetary benefits w.e.f 01.01.2011. The respondents are directed to issue appropriate orders in this regard within a period of twelve weeks from the date of receipt of a copy of this order.

13. Accordingly, the Writ Petition is allowed. Consequently, the connected WMP is closed. No costs.

24.10.2024
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Index : Yes/No
Neutral Citation : Yes /No
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To

1. Government of Tamil Nadu,
Rep. By Principal Secretary to Government,
Finance (CMPC) Department,
Fort St.George, Chennai – 9.
2. The Secretary,
Government of Tamil Nadu,
School Educational Department,
Fort St. George, Chennai – 9.
3. The Director of School Education,
College Road, Chennai – 6.
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Thiruvavarur, Thiruvavarur District.



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N.MALA, J

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