



WP(MD). No.11047 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 03/06/2024

CORAM

THE HON'BLE Ms.JUSTICE R.N.MANJULA

WP(MD) No.11047 of 2024 and
WMP(MD) No. 9845 of 2024

R.Sridhar

... Petitioner

Vs

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
School Education Department,
Fort St. George, Secretariat,
Chennai - 600 009.
2. The Director of School Education,
School Education Department, Chennai - 600 006..
3. The Joint Director (Vocational) Education,
School Education Department,
College Road, Chennai - 600 006.
4. The Chief Accounts Officer,
Commissioner of School Education,
Chennai - 600 006.
5. The District Educational Officer (Selection Grade),
Melur, Madurai District.



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6. The Headmaster,
Government Higher Secondary School,
Pothumbu, Madurai - 625 018.

... Respondents

PRAYER :- Writ Petition, filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the 6th respondent vide his impugned proceedings in Na.Ka. No.541/2023 dated 06.03.2024 and quash the same as illegal and consequently to direct the respondent to confer the selection grade pay of the petitioner strictly in accordance with the order passed by the 5th respondent in his proceedings in Moo.Mu. No.8849/Aa1/2022 dated 16.11.2022 and continue to pay the same.

For Petitioner : Mr.S.Mohammed Suhail for
M/s.Ajmal Associates

For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

Heard Mr.S.Mohammed Suhail, learned counsel for the petitioner and Mr.M.Siddharthan learned Additional Government Pleader, for the respondents.



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2. This writ petition has been filed challenging the impugned order of the 6th respondent dated 06.03.2024 and consequently to direct the respondent to confer selection grade pay of the petitioner strictly in accordance with the order passed by the 5th respondent in his proceedings in Moo. Mu. No.8849/Aa1/2022 dated 16.11.2022 and continue to pay the same.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

4. The petitioner has been given with a recovery notice in order to recover certain excess payment made to him. The claim for excess payment was made by the respondents on the basis of the audit objection dated 17.07.2023, however, the said objection has been challenged by the petitioner and several others by filing WP(MD) No.27205/2024 etc., batch. The said batch of writ petitions have been allowed by making the following observations:

“9. Therefore, the petitioners are not entitled for pay sale equivalent to P.G. Assistant and they are entitled

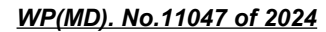


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for the pay scale in the cadre of Computer Instructor Grade-I. However, the excess amount which was already paid to the petitioners cannot be recovered, since it was not paid due to their representation or due to their fault.

10. In view of the above discussions, it cannot be said that the order passed by the Chief Accounts Officer, Chennai, finds with any infirmity. However, the orders passed by the Headmaster of the respective schools, insofar as the recovery of excess salary, cannot be sustained and it is liable to be quashed. Accordingly, the orders passed by the Headmaster of the respective schools, dated 24.08.2023, 25.08.2023, 23.08.2023, 19.07.2023, 21.08.2023, 09.06.2023, 29.05.2023, 14.09.2023, 13.09.2023, 21.09.2023, 07.11.2023, 04.11.2023 are hereby quashed. The respondents are directed to fix the scale of pay to the petitioners in the cadre of Computer Instructor Grade-I in the pay scale of Rs.9,300-34,800+Grade Pay Rs.4,800 and pay the salary accordingly to the petitioners and arrears if any, within a period of eight weeks from the date of receipt of a copy of this Order.

11. With the above directions, all the Writ Petitions are disposed of. Consequently, connected miscellaneous petitions are closed. There shall be no



5. Since the excess payment has not been made in view of the representation or due to the fault of the employees, the Court has held that no recovery can be made. In such case, the impugned order should not have been issued against the petitioner stating that the petitioner has not obtained a separate order from the Court. However, in this case, the petitioner was also one of a party in the said batch of writ petitions, since he has filed a writ petition in WP(MD) No.34163/2023, which was also included in the said batch, which are disposed on 12.02.2024. Even if it is presumed that the petitioner has not filed a separate writ petition, when the action of the respondents to recover the excess payment is found to be not illegal, this fact is available to similarly placed persons, like the petitioner.

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7. In view of the above, the writ petition is disposed of by setting aside the impugned order of the 6th respondent dated 06.03.2024. No costs. Consequently connected Miscellaneous Petition is closed.

03.06.2024

NCC : Yes/No

Index : Yes/No

RR

To

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R.N.MANJULA, J.

RR

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