



W.P.Nos.12677 of 2024 & batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.06.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. Nos.12677 to 12700 of 2024

W.P.No.12677/2024

K.Rajasundar

...

Petitioner

/vs/

1. The Principal Secretary to the Government
Finance Department,
Fort St. George,
Chennai – 600 009.
2. The Principal Secretary,
School Education Department,
Fort St. George, Chennai – 600 009.
3. The Director of School Education,
DPI Compound, College Road,
Chennai – 600 006.
4. The Joint Director (Vocational)
Directorate of School Education
DPI Compound, College Road,
Chennai 600 006.

... Respondents



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Writ Petition is filed under Article 226 of the Constitution of India

to issue a writ of mandamus to to direct the respondents to continue to pay the benefits of Additional Fitment table 15 and Rule 4(i) & (iii) of the Tamilnadu Revised Scale of Pay Rules, 2009 without adhering to the audit objection made during 2014.

For Petitioner ... Mr.R.Saravanan
(in all W.P's.)

For Respondents ... Mr.M.Siddharthan
(in all W.P's.) Additional Govt. Pleader

COMMON ORDER

The petitioners have filed these Writ Petitions for a direction to the respondents to continue to pay the benefits of Additional Fitment table 15 Rule 4(1)(iii) of the Tamil Nadu Revised Scale of Pay Rules, 2009.

2. Heard Mr.R.Saravanan, learned counsel for the petitioners and Mr.M.Siddharthan, learned Additional Government Pleader for the respondents.



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3. By consent of both sides, the writ petitions are taken up for final disposal.

4. The petitioners are the Vocational Teachers. The first respondent implemented the 6th Pay Commission vide G.O.No.234, Finance (Pay Cell) Department, dated 01.06.2009 and revised pay was implemented with effect from 01.01.2006. Consequent to the implementation of the 6th Pay Commission, the Government issued Tamil Nadu Revised Pay Scale Rules, 2009. According to the said Rules, the petitioners are entitled to fix their pay by getting the benefit of Rule 4(1)(iii) of the Tamil Nadu Revised Scale of Pay Rules, 2009. However the above benefit was denied to the petitioners by misconstruing the pay fixation of selection grade pay that is allowed for the employees who have completed 10 years of qualifying service for selection grade.

5. The petitioners' main thrust is only for pay fixation as per the 6th Pay Commission recommendation. Consequent to the issuance of Tamil Nadu Revised Scale of Pay Rules 2009, by adopting the recommendations of the 6th pay commission vide G.O.No.234 dated 01.06.2009, further



instruction has also been given through Government Letter No.51082/Pay Cell/2010-1 dated 15.09.2010. The said Government Letter contains the Additional Fitment Tables corresponding to the fixation of pay that should be done according to Rule 4 of the Tamil Nadu Revised Scale of Pay Rules, 2009. For the sake of clarity, Rule 4 of the Tamil Nadu Revised Scale of Pay Rules, 2009 is extracted hereunder:

“ 4. Fixation of Pay in the revised pay structure:-- The initial pay of a Government employee who elects to be governed by the revised pay structure from 1 January 2006 shall be fixed separately in respect of his substantive pay in the permanent post on which he holds a lien or would have had a lien if it had not been suspended and in respect of his pay in the officiating post held by him, in the following manner, namely:--

(1) In the case of all employees :--

(i) The pay in the pay band / pay scale shall be determined by multiplying the existing basic pay as on 1-1-2006 by a factor of 1.86 and rounding off the resultant figure to the next multiple of 10.

(ii) If the minimum of the revised pay band / pay scale is more than the amount arrived at as per (i) above, the pay shall be fixed at the minimum of the revised pay band / pay scale;

(iii) Where, in the fixation of pay, the pay of Government employees drawing pay at two or more consecutive stages in the existing scale gets bunched, that is to say gets fixed, in the revised pay structure at the same



stage in the pay band, then for every two stages so bunched, benefit of one increment shall be given so as to avoid bunching of more than two stages in the revised running pay bands. For this purpose, the increment will be calculated on the pay in the pay band only and grade pay should not be taken into account for the purpose of granting increments to alleviate bunching.

(iv) In the case of pay scales in Higher Administrative Grade (HAG) in the Pay Band 4, benefits of increments due to bunching shall be given taking into account all the stages in different pay scales in this grade.

(v) If by stepping up of the pay as above, the pay of a Government employee gets fixed at a stage in the revised pay band / pay scale (where applicable) which is higher than the stage in the revised pay an employee who was drawing pay at the next higher stage or stages in the same existing scale is fixed, the pay of the latter shall also be stepped up only to the extent by which it falls short of that of the former.

(vi) the pay in the pay band will be determined in the above manner. In addition to the pay in the pay band, grade pay corresponding to the existing scale will be payable.

NOTE:- See Illustration-1 to 9 in Schedule III to these rules.

(2) If a Government employee is on leave on 1st January 2006, he shall be entitled to the revised pay structure from that date, but the pay so fixed in the revised scale shall be admissible to him only from the date of his return to duty in the post after the expiry of leave and the period commencing on the 1st January 2006 and ending with the date of such



return will count for future increment in the revised pay structure depending on whether it will count for future increments in the existing scale.

(3) Similarly where a Government employee is on study leave on the first day of January, 2006 he will be entitled to the benefits under these Rules from 1-1-2006 or the date of option.

(4) A Government employee who on the 1 January 2006 is on leave preparatory to retirement, shall be entitled to choose his pay either in his substantive post or in the officiating post in the revised scale with effect from date for the purpose of computing his gratuity and pension.

(5) If a Government employee was under reduction of pay or stoppage of increment as a penalty on the 1st January 2006 his pay shall be fixed in the revised pay structure on the basis of present emoluments he drew on the 1st January 2006 and he shall continue to draw the pay so fixed in the revised scale till the expiry of the period of penalty. His pay in the revised scale shall be refixed immediately following the date of expiry of the period of penalty with reference to the present emoluments which he would have drawn on the 1st January, 2006 taking the fact into consideration whether the penalty awarded is with or without cumulative effect. If, for instance, a Government employee's increment falling due on the 1 January, 2006 had been postponed for a year without cumulative effect, his actual present emoluments as on the 1st January 2006 would be the basis for determination of his revised pay with effect from the 1st January, 2006 and the pay so fixed shall be in force upto the 31st



December 2006. However, for purpose of determination of his pay with effect from 1st January 2007 his pay on the 1st January 2006 shall be refixed notionally based on the present emoluments which he would have received on the 1 January 2006 but for his penalty and he will get the next increment on the 15th January 2007 from that stage.

(6) If, however, the penalty of stoppage of increment due on the 1 January 2006 had been awarded with cumulative effect, the revised pay shall be fixed based on the actual present emoluments as on the 1st January 2006. There shall be no refixation of pay in this case.

(7) If a Government employee is under suspension on the 1st January 2006, or if he was discharged or reverted from a post before that date and is reappointed to that post after that date, he shall be entitled to the revised scales of pay only from the date on which he returns to duty in the post or from the date of his reappointment to that post.”

6. When similarly placed persons approached this Court by filing writ petitions in WP No.15570/2021, this Court has allowed those writ petitions and directed the respondents therein to reconsider the case of the petitioners therein. The petitioners herein are also similarly placed.

7. Therefore, the issue in the present case is no longer res integra in view of the decision rendered by this Court in WP.No.15570/2021 dated



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29.02.2024, wherein, the following directions were given:

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“10. For the reasons above stated and in view of the real import of Rule 4 (1) (iii) of the Tamil Nadu Revised Scale of Pay Rules, 2009 read with Government Letter No.51082/Pay Cell/2010-1 dated 15.09.2010 along with the Additional Fitment Table No.15, the petitioners are entitled to the relief as prayed.

11. Accordingly, these Writ Petitions are allowed and the impugned proceedings of the second respondent dated 17.02.2020 in letter No.2021/SE7(1)/2020-1 is hereby quashed and the respondents are directed to reconsider the pay fixation and pass orders by fixing the pay strictly in accordance with the Additional Fitment Table No.15, within a period of eight weeks from the date of receipt of a copy of this order and also grant consequential retirement benefits to the petitioners by applying Rule 4(1)(iii) of the Tamil Nadu Revised Scale of Pay Rules, 2009. No costs. Connected miscellaneous petitions are closed.”

8. In view of the above judicial pronouncement, these writ petitions are allowed by directing the respondents to reconsider the pay fixation and pass orders by fixing the pay strictly in accordance with the Additional



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Fitment Table No.15, within a period of eight weeks from the date of receipt of a copy of this order and also grant consequential retirement benefits to the petitioners by applying Rule 4(1)(iii) of the Tamil Nadu Revised Scale of Pay Rules, 2009. No costs

14.06.2024

RR

To:

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R.N.MANJULA ,J.

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