



WP(MD) No.14028 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.07.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.14028 of 2024

V.Venkatesan

... Petitioner

Vs.

- 1.The State of Tamil Nadu ,
Rep by its Principal Secretary to Government,
School Education Department,
Fort. St. George, Secretariat,
Chennai - 9.
- 2.The Director of School Educaton,
School Education Department,
Chennai - 9.
- 3.The Joint Director (Vocation Al) Education,
School Education Department,
College Road, Chennai - 600 006.
- 4.The Chief Accounts Officer,
Commissioner of School Eduation,
Chennai 600 006.
- 5.The Chief Educational Officer,
Theni, Theni District.
- 6.The District Educational Officer,
Theni, Theni District.
- 7.The Headmaster,
Government Model Higher Secondary School,
Silvarpatti, Periyakulam Taluk,
Theni District.

...Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the 7th respondent vide his impugned proceedings in Na.Ka.No.59/2024 dated 12.06.2024 and quash the same as illegal and consequently, direct the respondents to continue to disburse the same allowance without any reduction or recovery in the post of Computer Instructor Grade – I.

For Petitioner : Mr.S.Mohamed Imran
for M/s.Ajmal Associates
For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

The petitioner has filed this writ petition challenging the order issued by the 7th respondent vide his impugned proceedings in Na.Ka.No.59/2024 dated 12.06.2024 and consequently, to direct the respondents to continue to disburse the same allowance without any reduction or recovery in the post of Computer Instructor Grade – I.

2.Heard Mr.S.Mohamed Suhail, learned counsel for the petitioner, Mr.Amjad Khan, learned Government Advocate for the respondents.

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



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4.The petitioner is working as a Computer Instructor Grade I at the seventh respondent School and his pay scale has been fixed based on the National Council for Teacher Education norms. Subsequently, based on the audit objection, the seventh respondent has issued the impugned demand notice, dated 12.06.2024 stating that the pay scale of the petitioner has been wrongly fixed and therefore, the excess amount should have been recovered. Challenging the same, the petitioner has filed this present writ petition.

5.The learned counsel for the petitioner submitted that the recovery order has been made without even putting the petitioner on notice. The petitioner was not even aware of the details of the audit objection.

6.The issue in hand is no longer a *res-integra*. The issue of recovery raised in this writ petition has already been discussed in the earlier judgment of this Court, dated 08.03.2024 in **W.P.No.27205 of 2024** etc., batch, in the case of ***M.Rajamohan vs. The Government of Tamil Nadu, rep. by its Secretary, School Education Department*** and others, in which, after an elaborate discussion, it has been held as follows:-



“7. Admittedly, the pay scale was fixed not on the request made by the petitioners and not on the fault committed by the petitioners and not on the false representation of the petitioners. Further insofar as pay scale is concerned as per government order, now their pay scale has been revised and they have been paid salary as per the revised salary. That apart, the post of Computer Instructor Grade-II has carried time scale of Rs. 9,300-34,800+Grade Pay Rs.4,600. The post was upgraded as Computer Instructors Grade-I, and only the grade pay of Rs. 200/- alone excess in the grade pay to Computer Instructors Grade-I.

....

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

7. In view of the aforesaid reasons, the writ petition stands allowed and the order passed by the seventh respondent in his proceedings in Na.Ka.No.59/2024 dated 12.06.2024 is hereby quashed.



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The respondents are directed to fix the scale of pay to the petitioner in the cadre of Computer Instructor Grade-I and pay the salary accordingly to the petitioner and arrears if any, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

01.07.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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To

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School Education Department,
Fort. St. George, Secretariat,
Chennai - 9.

2.The Director of School Education,
School Education Department,
Chennai - 9.

3.The Joint Director (Vocational) Education,
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R.N.MANJULA, J.

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