



WP(MD) No.16560 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.07.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.16560 of 2024

J.C.Hema Barathy

... Petitioner

Vs.

1. The Principal Secretary to the Government,
Finance Department,
Fort. St. George,
Chennai - 9.
2. The Principal Secretary to the Government,
School Education Department,
Fort. St. George,
Chennai -9.
3. The Commissioner of School Education,
Directorate of School Education,
DPI Complex, College Road,
Chennai.



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4. The Joint Director (Vocational),
Directorate of School Education,
DPI Complex, College Road,
Chennai – 600 006.

5. The Chief Educational Officer,
Thevarpuram Road, Pudugramam,
Thoothukudi District.

6. The Accountant General,
O/o. The Accountant General (A and E),
No.361, Anna Salai, Teynampet,
Chennai - 600 018.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents herein to extend the benefits of Additional Fitment table issued in Government vide Letter No.51082/Paycell/2010-1, dated 15.09.2010 as per Rule 4(i) and (iii) of the Tamilnadu Revised Scale Pay Rules, 2009 and consequently revise the pensionary benefits of writ petitioner with all monetary benefits within the stipulated time fixed by this Court.



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For Petitioner : Mr.M.Saravanakumar
For Respondents : Mr.J.Ashok – for R1 to R4
Additional Government Pleader
Mr.T.Amjad Khan - for R5
Government Advocate
Mr.P.Gunasekaran – for R6
Standing Counsel

ORDER

Heard Mr.M.Saravanakumar, learned counsel appearing for the petitioner, Mr.J.Ashok, learned Additional Government Pleader appearing for the respondents 1 to 4, Mr.T.Amjad Khan, learned Government Advocate appearing for the fifth respondent and Mr.P.Gunasekaran, learned Standing Counsel appearing for the sixth respondent.

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



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3. The petitioner was appointed as a part-time Vocational Teacher in the year 1980. The petitioner was brought on time scale of pay on 01.04.1990 and awarded with selection grade scale of pay on 01.04.2000. On 15.06.2020, after attaining the age of superannuation, she was retired from service. The 1st respondent implemented the 6th Pay Commission, vide G.O.Ms.No.234, Finance (Pay Cell) Department, dated 01.06.2009 and the revised pay scale was implemented w.e.f. 01.01.2006. Consequent to the implementation of 6th Pay Commission, the Government issued Tamil Nadu Revised Scales of Pay Rules, 2009. According to the said Rules, the petitioner is entitled to fix her pay by getting the benefit of Rule 4(i)(iii) of the Tamil Nadu Revised Scale of Pay Rules, 2009. However, the above benefit was denied to the petitioner by misconstruing the pay fixation of special grade pay that is allowed for the employees, who have completed 20 years of qualifying service for special grade.

4. The issue on hand is no longer a *res-integra*. This Court has already dealt with a similar issue in W.P.No.15570 of 2021 etc., batch, dated 29.02.2024 (C.Arumugam Vs. The Government of Tamil



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Nadu, rep. by its Secretary, Finance (Pay Cell) Department, Fort St.George, Chennai and others). Similarly placed persons have already approached this Court through the above petition and got favourable orders in their favour, wherein, it is held as follows :

“6. Earlier, a similarly placed person by name K.Kolanjiyappan filed a writ petition in W.P.No.30253 of 2019 and in which an order has been passed to consider the representation of that petitioner in accordance with Rule 4 (1) (i) and (iii) of the Tamil Nadu Revised Scale of Pay Rules, 2009 in the light of Letter No.51082/Pay Cell/2010-1 dated 15.09.2010. Pursuant to the said direction, the impugned order has been passed by denying the above benefit and in the same order direction has been given to the Director of School Education to pass orders accordingly. Even though the order has been passed in pursuant to the writ petition filed in W.P.No.30253 of 2019, the impact of the order would be on the petitioners as well. Hence the petitioners have chosen to challenge the same.

7. On perusal of the order, it is seen that the respondents have invoked the application of G.O.Ms.No. 306, Finance (CMPC) Department, dated 18.09.2018 for the claim of the petitioners. Admittedly, the petitioners' claim is only for pay fixation as per the pay revision recommendation and as per the Rule 4 of the Tamil Nadu



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Revised Scale of Pay Rules, 2009. In fact much clarification has been made in the Government Letter No. 5108/Pay Cell/2010-1 dated 15.09.2010 by giving the relevant tables as illustrations. But the respondents, without taking cue from the said orders and the tables attached therewith, had chosen to invoke G.O.Ms.No.306, Finance (CMPC) Department, dated 18.09.2018 (which speaks about the grade scale of pay for the Vocational Teachers who have completed qualifying years of service for getting selection grade). Obviously in view of the above confusion, the respondents have chosen to deny the benefit of Rule 4 (1) (iii) of the Tamil Nadu Revised Scale of Pay Rules, 2009 to the petitioner.

8. *Mr.P.Gurunathan, the learned Additional Government Pleader, submitted that a case has already been filed before the Madurai Bench of this Court and in which an order has been passed by partly allowing the writ petition. With regard to the same the following averments have been made in paragraph No.10 of the Counter of respondents 1, 2, 3 & 5.*

9. *The above judgment is with regard to the allowance of grade pay and not in respect of pay fixation. This is a claim based upon the pay fixation as per the Rules and hence the above judgment has got no application to the facts of the present case.*



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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.”

5. Since the above judgment is squarely applicable to the case of the petitioner, in the line of the earlier order, the Writ Petition is allowed as prayed for and the respondents are directed to continue to pay the benefits in accordance with Rule 4 (i) & (iii) of the Tamil Nadu



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Revised Scale of Pay Rules, 2009 and Additional Fitment Table-15. No costs.

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

RM



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R.N.MANJULA, J.

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Order made in
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