



W.P.(MD)No.16965 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.07.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.16965 of 2024

Nagajeyam

... 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.

4.The Accountant General,
Office of the Accountant General (A&E),
361, Anna Salai,
Teynampet, Chennai – 600 018.

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

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying 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/Pay Cell/2010-1, dated 15.09.2010 as per Rule 4(i) and (iii) of the Tamil Nadu Revised Scale Pay Rules, 2009 and consequently revise the pensionary benefits of deceased C.Rajaram, husband of writ petitioner with all monetary benefits and arrears by considering the representation dated 08.06.2024 given by the petitioner within the stipulated time may be fixed by this Court.

For Petitioner : Mr.A.L.Kannan
For Respondents : Mr.J.Ashok (R1, R2 & R5)
Additional Government Pleader
Mr.T.Amjadkhan (R3)
Government Advocate
Mr.P.Gunasekaran (R4)
Standing Counsel

ORDER

By consent of both sides, the Writ Petitions are taken up for final disposal at the admission stage itself.



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2. Heard Mr.A.L.Kannan, learned counsel for the petitioner, Mr.J.Ashok, learned Government Advocate for the respondents 1, 2 & 5, Mr.T.Amjadkhan, learned Government Advocate for the third respondent and Mr.P.Gunasekaran, learned Standing Counsel for the fourth respondent.

3. The petitioner has filed the Writ Petition seeking direction against the respondents to extend the benefits of Additional Fitment table issued in Government vide Letter No.51082/Pay Cell/2010-1, dated 15.09.2010 as per Rule 4(i) and (iii) of the Tamil Nadu Revised Scale Pay Rules, 2009 and consequently revise the pensionary benefits of deceased C.Rajaram, husband of writ petitioner with all monetary benefits and arrears by considering the representation dated 08.06.2024 given by the petitioner within the stipulated time may be fixed by this Court.

4. The husband of the petitioner is the Vocational Instructor. The first respondent implemented the 6th Pay Commission vide G.O.No. 234, Finance (Pay Cell) Department, dated 01.06.2009 and revised pay



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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 husband of the petitioner is entitled to fix his 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's husband.

5. The issue raised in the Writ Petition has been elaborately discussed and covered in the earlier judgment passed in the batch of Writ Petitions in ***W.P.Nos.15570 of 2021 batch dated 29.02.2024 (C.Arumugam Vs. The Government of Tamil Nadu, represented by its Secretary, Finance (Pay Cell) Department, Fort St.George, Chennai - 600 009)***, wherein the order has been analysed as under:

“5.The claim of the petitioners rests on Rule 4(i)(iii) of the Tamil Nadu Revised Scale of Pay Rules, 2009. As per the Additional Fitment Table No.15, the benefit of one increment is given in the revised pay structure for every two stages bunched at the same stage in the pay band. For instance, in Additional Fitment Table No.15, if the stage in the existing scale is 6900 over a span of three years and 7900 over a span of four years, both consecutive stages will be



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bunched together and the revised basic pay will be given with 3% increase in the basic pay. The Vocational Teachers, who are in the existing stage of 6900 and 7100 will be given with 470 which is 3% addition with the revised basic pay and thereby their pay will be fixed at 21470. Accordingly when two consecutive stages fall in respect of the stage of 7300 and 7500, the revised basic pay will be fixed at 21960 by giving 3% addition on the basis of the earlier basic pay. So it goes on with such addition in the fitment table in view of Rule 4(1) (iii) of the Tamil Nadu Revised Scale of Pay Rules, 2009. But it is made clear that the revised basic pay by giving 3% addition for the bunching effect would be only on the basis of the pay band. And the grade pay will not be taken into account.

6. There is no dispute on the point that pay band alone be taken for addition. The above Fitment method of giving one increment addition is in view of considering the fact that the persons who put more number of service should not get equal pay as that of their far below juniors. Taking into account of the service rendered by the seniors in the same cadres, the above increment for one bunching effect is given. If the same benefit is not given and the pay is fixed devoid of such addition of 3%, naturally the persons who have put many years of service as Vocational Teachers and their juniors would be getting the revised basic pay only at 21000 uniformly.

7. 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



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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.

8.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 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.

9.Mr.P.Gurunathan, the learned Government Advocate, submitted that a case has already been filed before the Madurai



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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.

10.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.

11.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.

12.Therefore, 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 six 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.”

6. Since similarly placed persons were given with the benefits and in view of the above detailed discussions and findings, the respondents are directed to reconsider the pay fixation of the petitioner's husband by considering the representation of the petitioner dated



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08.06.2024 and pass orders by fixing the pay strictly in accordance with the Additional Fitment Table No.15, within a period of six weeks from the date of receipt of a copy of this order and also grant consequential retirement benefits to the petitioner's husband by applying Rule 4(i)(iii) of the Tamil Nadu Revised Scale of Pay Rules, 2009.

7. In view of the above, the Writ Petition stands allowed. No costs.

25.07.2024

NCC: Yes/No
Index : Yes/No
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R.N.MANJULA, J.

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