



W.P.(MD)No.17996 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.17996 of 2024 &
W.M.P.(MD)Nos.15415 & 15416 of 2024

A.R.A.H.Mubarak Sathik Ali Khan

... Petitioner

VS.

- 1.The State of Tamil Nadu,
Rep. 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 (Vocation) Education,
School Education Department,
College Road,
Chennai - 600 006.
- 4.The Chief Accounts Officer,
Commissioner of School Education,
Chennai - 600 006.



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5.The District Educational Officer (Secondary)

O/o.The District Educational Office,
Dindigul, Dindigul District.

6.The Headmaster,

Government Higher Secondary School,
Agaram, Dindigul District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 6th Respondent vide Na.Ka.No.32/2023 dated 20.07.2023 and quash the same as illegal and consequently to direct the Respondents to refund the amount recovered from the petitioner for the period from July 2023 to till date.

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

For Respondents : Mr.T.Amjadkhan
Government Advocate

ORDER

Heard Mr.S.Mohamed Suhail, learned counsel appearing for the petitioner and Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents.



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2. The petitioner has filed this writ petition seeking to quash the the impugned order of the sixth respondent in Na.Ka.No.32/2023 dated 20.07.2023 and to direct the respondents to refund the amount recovered from him for the period from July 2023 to till date.

3. The petitioner is working as a Computer Instructor Grade I at the sixth 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 sixth respondent has passed the impugned order of recovery dated 20.07.2023 stating that the pay scale of the petitioner has been wrongly fixed. Challenging the same, the present petition is filed.

4. Mr.S.Mohamed Suhail, learned counsel appearing for the petitioner submitted that the recovery order has been passed without even putting the petitioner on notice.

5. 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



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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.

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9. Therefore, the petitioners are not entitled for pay sale 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. ...”



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6. The facts of the above Judgment would apply to the facts of the present case also. In the instant case also, the excess salary was not paid due to the misrepresentation of the petitioner or due to his fault. Hence, the order of recovery is liable to be set aside.

7. In view of the above observations, the writ petition stands **allowed** and the impugned order of the sixth respondent in Na.Ka.No. 32/2023 dated 20.07.2023 is set aside and the respondents are directed to fix the scale of pay of the petitioner in the cadre of Computer Instructor Grade-I and pay the salary accordingly to him. The respondents are further directed to refund the amount recovered from the petitioner, if any, forthwith. No costs. Consequently, connected Miscellaneous Petitions are closed.

31.07.2024

NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order
mbi



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To
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R.N.MANJULA, J.

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