



W.P.No.2936 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2025

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.2936 of 2025 and
W.M.P.No.3220 and 3221 of 2025

Karunakaran G.

...Petitioner

Vs

1. State of Tamilnadu, Represented by its Secretary,
School Education Department, Fort St. George,
Chennai – 600 009.

2. The Director of School Education,
DPI Campus, College Road,
Chennai 600 006.

3. The Joint Director of School Education, (Vocational),
DPI Campus, College Road,
Chennai 600 006.

4. The Chief Educational Officer,
Chief Educational Office, Room No.514,
5th Floor, Tiruppur Collectorate,
Tiruppur District – 641 604.

5. The Financial Advisor cum Principal Accounts Officer,
Office of the Director of School Education,
DPI Campus, College Road,
Chennai 600 006.

6. The Headmaster,
TAMM Government Higher Secondary School,
Nathakkadaiyur, Tiruppur District 638 108.

...Respondents



W.P.No.2936 of 2025

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 5th respondent impugned order Na.Ka.No.053130/akatha/2023 dated 20.07.2023 and the consequential impugned order of the 6th respondent in Na.Ka.No.180/2024 dated 11.12.2024 and quash the same and consequently direct the Respondents to permit the petitioner to continue to receive the pay scale already fixed and pass orders.

For Petitioner	: Mrs.Dakshayani Reddy Sr.Advocate for Mrs.S. Suneetha
For Respondents	: Mrs.S. Mythre Chandru Special Government Pleader

ORDER

This Writ Petition has been filed to issue a Certiorarified Mandamus calling for the records of the 5th respondent impugned order Na.Ka.No.053130/akatha/2023 dated 20.07.2023 and the consequential impugned order of the 6th respondent in Na.Ka.No.180/2024 dated 11.12.2024 and quash the same and consequently direct the Respondents to permit the petitioner to continue to receive the pay scale already fixed and pass orders.

2. Mr.S. Mythre Chandru, Special Government Pleader takes notice

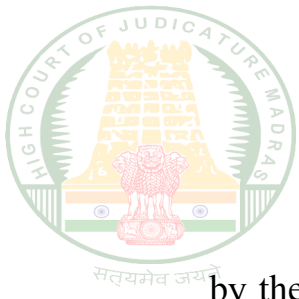


W.P.No.2936 of 2025

WEB COPY

for the Respondents. In view of the consent expressed by the learned counsel appearing for either side, this petition is taken up for final disposal.

3. The case of the petitioner is that he was appointed as Computer Instructor on 08.11.2008. The petitioner was qualified to be appointed as computer science teacher to teach Higher Secondary classes. When this being the case the Government of Tamilnadu issued order in G.O.MS.No.26 School Education (SEZ-11) Department dated 12.02.2019, with reference to the National Council for Teacher Education (hereinafter referred to as “NCTE”) Regulations notified vide F.No.62-1/2012/NCTE/N&S dated 12.11.2014, and created post of Computer Instructors Grade I should be filled up only through the direct recruitment by the Teacher's Recruitment Board. In the very same Government Order there was a direction that the existing Computer Instructors if they have 8 years of service in the post and possess required educational qualification prescribed by NCTE shall be promoted as Computer Instructors Grade I. As the petitioner is eligible to the said post he was promoted and pay also fixed accordingly. When this being the case the impugned order passed



W.P.No.2936 of 2025

WEB COPY

by the 5th respondent in Na.Ka.No.053130/akatha/2023 dated 20.07.2023 and the consequential impugned order of the 6th respondent in Na.Ka.No.180/2024 dated 11.12.2024 to re-fix the pay of the petitioner according to Rule 22(b) is not valid and the same requires interference by this Court.

4. The learned counsel for the petitioner submitted that the said issue has been challenged before this Court in W.P.Nos.6220 and 7835 of 2019 and this Court has allowed the said writ petition and further observed that if the petitioners were denied promotion during the selection, most of them will have a very bleak chance of getting further promotion to the post of Headmaster Higher Secondary School. Denial of promotion during the selection will definitely have a cascading effect in the career of the petitioners. Hence prays to allow this petition.

5. The learned Special Government Pleader appearing for the respondents submitted that as per the Government Order in G.O.Ms.No.26, School Education Department dated 12.02.2019, to comply with the norms fixed by the NCTE regulations and also by



W.P.No.2936 of 2025

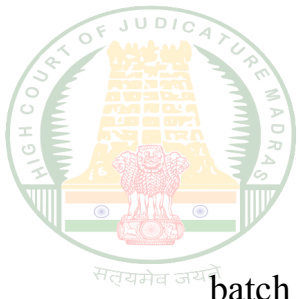
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considering the nature of work of Computer Instructors redesignated the Computer Instructors (B.T.Cadre) as Computer Instructors Grade-I and also accorded sanction to upgrade the qualified Computer Instructors Grade -II to Computer Instructors Grade-I, with effect from the date of issuance of order. Therefore, the petitioner is not entitled for the pay scale in the cadre of P.G.Assistant.

6. Heard both sides and perused the materials available on record.

7. Admittedly, the pay scale was fixed not on the request made by the petitioners and not on the fault committed by the petitioner and not on the false representation of the petitioner. 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-I and only the grade pay of Rs.200/- alone excess in the grade pay to Computer Instructors Grade-I

8. This Court while dealing with the identical facts of the case in a



W.P.No.2936 of 2025

WEB COPY

batch of Writ Petitions in W.P.No.27205 of 2023 has dealt with the G.OMs.No.26, School Education (SE7-1) Department dated 12.02.2019

and the relevant portion reads as follows:-

8. Further this Court also struck down the clause (v) in para 2 of the Government Order in G.OMs.No.26, School Education (SE7-1) Department dated 12.02.2019 and the relevant portion reads as follows:-

“9. The petitioners after they were ultimately appointed as Computer Instructors in the year 2015, were hoping that it will be sailing smooth atleast for the rest of their career. However, the respondents thought it otherwise. The petitioners are eligible to be considered for promotion under the NCTE Norms for the post of Computer Instructors Grade-I. However a condition was added in the impugned Government Order which ensured that none of them who were directly appointed as Computer Instructors will get their promotion to the next higher post.

10. Under normal circumstances, this Court will never interfere with the service conditions since it is the prerogative of the employer. This Court is also aware of the fact that no one has a fundamental right for promotion and that there is only a fundamental right for being considered for promotion if the aspiring candidates fulfill the requirements. There is only one exception where this Court will question the condition imposed by the employer and that is where the condition is opposed to any Statute or Regulations or where it is added with a mala fide intention to ensure



WEB COPY



W.P.No.2936 of 2025

that only a certain category of persons will be fulfilling the eligibility and the others will be relegated from the process of selection.

11. In the present case, right from the beginning, the respondents have always supported only those persons, who came in through ELCOT on contract basis. The same has already been commented upon in the earlier paragraphs of this Judgment. The requirement of 8 years experience was not prescribed under the NCTE Regulations. Going by the previous happening in the present case and the attitude of the respondents against the regularly employed Computer Instructors, it is clear that this 8 years experience has been added in the Government Order only to ensure that the petitioners are not considered for promotion to the post of Computer Instructor Grade -I during the present selection. It was tailor-made to avoid the petitioners from being promoted to the post of Computer Instructor Grade-I. If the petitioners are denied promotion during the present selection, most of them will have a very bleak chance of getting further promotion to the post of Headmaster, Higher Secondary School. Denial of Promotion during the present Selection will definitely have a cascading effect in the career of the petitioners.

9. From the above Judgment it is made clear that the petitioner is not entitled for pay scale equivalent to P.G.Assistant and he is entitled for the pay scale in the cadre of Computer Instructor Grade-I. However, the excess amount which was already paid to the petitioner cannot be



W.P.No.2936 of 2025

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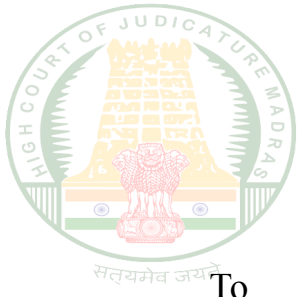
recovered, since it was not paid due to their representation or due to their fault.

10. In view of the above facts it is made clear that the impugned orders passed by the 5th respondent impugned order Na.Ka.No.053130/akatha/2023 dated 20.07.2023 and the consequential impugned order of the 6th respondent in Na.Ka.No.180/2024 dated 11.12.2024 is liable to be quashed and the same is accordingly quashed. 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 sixteen weeks from the date of receipt of a copy of this Order.

11. With the aforesaid direction, this Writ Petition stands allowed of. No costs. Consequently the connected miscellaneous petitions are closed.

29.01.2025

Index: Yes/No
Speaking order/Non-speaking order
smn



W.P.No.2936 of 2025

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V.BHAVANI SUBBAROYAN,J.



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