BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 22.01.2025

Delivered On : 18.02.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.9087 of 2021
and
W.M.P.(MD)Nos.6846 and 9320 of 2021

K.J.Anbarasu ... Petitioner

Vs.

1.The Director of School Education,
DPI Campus, College Road,
Chennai.

2.The Accountant General (Accounts and Entitlements),
Accountant General Department,
Chennai 600 018.

3.The District Educational Officer,
Karur, Karur District.

4.CSI Boys Higher Secondary School,
Rep. By its Correspondent,
Karur,
Karur District. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the impugned proceedings in Na.Ka.No.3860/A4/2020, dated .03.2021, signed on 08.04.2021, issued by the third respondent and quash the same as illegal.

For Petitioner : Mr.A.L.Kannan for Mr.S.Manikandan
For Respondents 1 & 3 : Mr.M.Sarangan
Additional Government Pleader
For 2nd Respondent : Mr.S.Mahalakshmi
Standing Counsel
For 4th Respondent : No Appearance

ORDER

This Writ Petition has been filed to quash the impugned proceedings in Na.Ka.No.3860/A4/2020, dated nil.03.2021, signed on 08.04.2021, issued by the third respondent.

2.The petitioner joined as Part Time Vocational Teacher on 10.10.1985 and his qualification is M.Com., M.Ed. He was regularized on 16.10.1992 from the Part Time Vocational Teacher post to full time scale of pay. Further he was awarded with selection grade and special grade on 16.10.2002 and 16.10.2012 respectively. On attaining his age of superannuation, he retired as a Vocational Teacher on 31.03.2020, while he was serving at CSI Boys Higher Secondary School, Karur District. The Government of Tamil Nadu decided to revise the scales of pay of new recruits, for which One Man Committee was appointed by the Government vide letter No.51082/Pay Cell/2010 – 1, dated 15.09.2010, in regard to Tamil Nadu Revised Scale of Pay Rules, 2009, as to additional fitment table. The said One Man Committee came up with the additional fitment table, which would be applicable to the concerned Government servants, which was accepted by the Government. It is the specific contention of the second respondent that as per G.O.Ms.No.306, Finance (CMC) Department, dated 12.09.2018, the petitioner would be eligible only to get the pay scale from the year 01.01.2006 - PB3 - 15600 + 39100 + 5400 and the total would be fixed to an amount of Rs.21,000/- as pay scale. Though the petitioner would be covered under G.O.Ms.No. 303, Finance (pay cell) Department, dated 11.10.2017, the second respondent by proceedings in P23/12325293/1/R2325293 dated 13.08.2020, had stated that the petitioner would be eligible to get only a fixed pay of Rs.21,000/- and not the earlier pay of Rs.22,460/- and the same has been wrongly paid to him. Based upon which, the third respondent vide impugned order in Na.Ka.No. /A4/2020 dated nil. 09.2020, has sent a notice to the fourth respondent, alleging that the petitioner is eligible to get only a fixed pay of Rs.21,000/- and the amount which has been paid to him in excess is to be recovered from the year 01.04.2013. The third respondent further passed another impugned order vide Na.Ka.No.991/A5/2020, dated nil.09.2020, that "*the pay revised by applying the additional fitment table is not in order, the additional fitment table is not applicable in this case further regarding the inclusion of double part time service, it can be counted only for those G.S. who have applied in the Court before 06.04.2018, as per G.O.194 dated 12.09.2018, hence the part time services not taken for calculation. However, PLD is taken as 98400- as against 104400- in the proposal*". Based on the said impugned order passed by the third respondent, the petitioner was declined with the benefit, which was given to him till his retirement. Under such circumstances, the petitioner was called upon by the fourth respondent, directing him to offer detailed written explanation as to why recovery should not be effected in this regard. For which, the petitioner had given his detailed explanation during September 2020. After receiving the same instead of passing any orders on the petitioner's objection, the fourth respondent is taking steps to recover the petitioner's salary. Hence, challenging the order passed by the third respondent in Na.Ka.No. /A4/2020 dated nil.09.2020 and the order in Na.Ka.No. 991/A5/2020, dated nil.09.2020, the petitioner filed a petition in W.P.(MD)No.14544 of 2020 before this Court and this Court by order dated 01.02.2021, allowed the same with the following observation:-

> *"5.In the light of the above discussion, the impugned proceedings in Na.Ka.No. /A4/2020, dated nil.09.2020 and Na.Ka.No.991/A5/2020, dated nil.09.2020 are quashed. The respondents are at liberty to issue a show cause notice to the petitioner, calling for his objections prior to any recovery and upon consideration of such objections, the concerned respondents shall pass a recent order in accordance with law.*
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> *6. Thus, the Writ Petition stands allowed accordingly."*

3.On receipt of the copy of the aforesaid order passed by this Court, the District Educational Officer, Karur, issued a show cause notice dated 22.03.2021, to the petitioner, for which, the petitioner had submitted his detailed reply dated 24.03.2021. But without considering the petitioner's explanation and the judgment of the Hon'ble Apex Court in ***Whitewasher's*** case the impugned proceeding in Na.Ka.No. 3860/A4/2020 dated nil.03.2021, signed on 08.04.2021, was issued by the third respondent. Challenging the same, this Writ Petition is filed.

4.Heard the learned counsel for the petitioner, the learned Additional Government Pleader for respondents 1 and 3, the learned Standing Counsel for the second respondent and carefully perused the materials available on record.

5.The Government of Tamil Nadu vide Government Order in G.O.Ms.No.358, Finance (pay cell) Department, dated 20.08.2008, constituted an official committee to examine and make necessary recommendations for the revision of scales of pay and allowances of the State Government employees and teachers including employees of local bodies based on the decisions of the Central Government on the recommendations of the sixth central pay commission. The said official committee recommended revision of pay scales to the employees on a “pay scale to pay scale basis”, the committee also pointed out the anomalies in pay scales brought to notice by the various employees associations/individual employees to the said committee, which should also be examined by the Government separately and suitable orders should be issued. Accepting the said recommendation, the Government introduced the Tamil Nadu Revised Scales of Pay Rules, 2009 (hereinafter to be mentioned as Rules, 2009) vide G.O.Ms.No.234, Finance (pay cell) Department, dated 01.06.2009. Following which, a pay anomaly arose between the pay scale of the existing employees and newly recruited employees and in order to rectify the same, an One Man Committee was appointed by the Government vide G.O.Ms.No.444, Finance (PC) Department, dated 09.06.2009. The One Man Commission on examining the anomalies on the implementation of the recommendations of the official committee, 2009, recommended for revision of scales of pay for a number of posts in various departments. The Government after careful examination, decided to accept the recommendation made by the One Man Commission in respect to various posts and accordingly for the purpose of implementations of the recommendations of One Man Commission with respect to the various posts, the Government issued as many as 87 Government Orders in G.O.Ms.No.254 to G.O.Ms.No.340, Finance (pay cell) Department, on 26.08.2010. Pursuant to the implementation of the recommendations of One Man Committee, when the Finance Department decided to apply Rule 4(1) of the Rules, 2009, it was identified that the additional fitment table framed under G.O.Ms.No.234, Finance (pay cell) Department dated 01.06.2009, would be applicable only to those employees, who have been extended with the benefit directly under the said Government Order. Hence, the Finance Department decided to issue comprehensive additional fitment table, irrespective of post by applying Rule 4(1) of Tamil Nadu Revised Scales of Pay Rules, 2009 and accordingly, issued additional fitment table vide Finance Letter No.51082/pay cell/2010-1, dated 15.09.2010.

6.For clarity, Rule 4(1) of rules, 2009, is extracted here under:-

"4. Fixation of Pay in the revised pay structure:-- The initial pay of a Government employee who elects to be governed by the revised pay structure from 1st January 2006 shall be fixed separately in respect of his substantive pay in the permanent post on which he holds a lien or would have had a lien if it had not been suspended and in respect of his pay in the officiating post held by him, in the following manner, namely :--

(1) In the case of all employees :--

(i) The pay in the pay band / pay scale shall be determined by multiplying the existing basic pay as on 1—1—2006 by a factor of 1.86 and rounding off the resultant figure to the next multiple of 10.

(ii) If the minimum of the revised pay band / pay scale is more than the amount arrived at as per (i) above, the pay shall be fixed at the minimum of the revised pay band / pay scale;

(iii) Where, in the fixation of pay, the pay of Government employees drawing pay at two or more consecutive stages in the existing scale gets bunched, that is to say gets fixed, in the revised pay structure at the same stage in the pay band, then for every two stages so bunched, benefit of one increment shall be given so as to avoid bunching of more than two stages in the

revised running pay bands. For this purpose, the increment will be calculated on the pay in the pay band only and grade pay should not be taken into account for the purpose of granting increments to alleviate bunching.

(iv) In the case of pay scales in Higher Administrative Grade (HAG) in the Pay Band—4, benefits of increments due to bunching shall be given

taking into account all the stages in different pay scales in this grade.

(v) If by stepping up of the pay as above, the pay of a Government employee gets fixed at a stage in the revised pay band / pay scale (where applicable) which is higher than the stage in the revised pay an employee who was drawing pay at the next higher stage or stages in the same existing scale is fixed, the pay of the latter shall also be stepped up only to the extent by which it falls short of that of the former.

(vi) The pay in the pay band will be determined in the above manner. In addition to the pay in the pay band, grade pay corresponding to the existing scale will be payable."

7.For the sake of better understanding, Letter No.51082/Pay Cell/2010-1, dated 15.09.2010, from the Principal Secretary to Government is extracted as follows:-

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Finance (PC) Department,
Fort St. George,
Chennai – 600 009.

Letter No.51082/ Pay Cell / 2010--1, dated: 15--09—2010.

From

Thiru. **K. SHANMUGAM,** I.A.S.,
PRINCIPAL SECRETARY TO GOVERNMENT.

To

All Secretaries to Government.
The Secretary, Legislative Assembly, Secretariat, Chennai-600 009.
The Secretary to the Governor, Chennai--32.
The Comptroller, Governors Household, Raj Bhavan, Chennai-32.
The Secretary to the Governor, Chennai--32.
The Governor's Secretariat, Raj Bhavan, Guindy, Chennai- 600 032.
All Departments of Secretariat(OP / Bills), Chennai – 9.
All Heads of Departments.
All Collectors / All District Judges / All Chief Judicial Magistrates.
The Accountant General (Accounts & Entitlements), Chennai- 600 018.
The Principal Accountant General (Audit.I), Chennai-600 018.
The Accountant General (Audit.II), Chennai-600 018.
The Accountant General (CAB), Chennai-600 009 / Madurai.
The Registrar General, High Court, Chennai-600 104.
The Chairman, Tamil Nadu Public Service Commission, Chennai-600 006.
The Registrar of all Universities in Tamil Nadu.
The Director of Treasuries and Accounts, Chennai-15.
The Director of Pension, DMS Complex, Chennai-600 006.
The Director of Local Fund Audit, Chennai – 108.
The Pension Pay Officer, Chennai- 600 006.
The Pay and Accounts Officer, Secretariat, Chennai-9.
The Pay and Accounts Officer,(North / South / East) Chennai- 1 / 35 / 8.
The Pay and Accounts Officer, Madurai - 625 001.
All Treasury Officers / Sub-Treasury Officers.
The Commissioner of Tribunal for Disciplinary Proceedings,
No.6, Manickeswari Road, Chennai-10.
The Commissioner, Corporation of Chennai / Madurai / Coimbatore
/Tiruchirapalli / Salem / Tirunelveli, Tuticorin, Vellore, Tirupur, Erode.
The Project Co-ordinator, Tamil Nadu Integrated Nutrition Project,
No.570, Anna Salai, Chennai-18.

/p.t.o./

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Sir,

Sub: Tamil Nadu Revised Scales of Pay Rules 2009 – Revision of Scales of pay based on the recommendations of the One Man Commission 2009 – Orders issued – Additional Fitment Table – Issued.

Ref: 1. G.O.Ms.No. 234, Finance (PC) Department, dated: 01—06—2009.
2. G.O.Ms.No. 444, Finance (PC) Department, dated: 09—09—2009.
3. G.O.Ms.Nos.254 to 340, Finance (PC) Department, dated: 26—08—2010.

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The One Man Commission constituted in the Government Order second cited to examine the anomalies, if any, arisen consequent on the implementation of the recommendations of the Official Committee 2009 has recommended for revision of scales of pay of a number of posts in various departments. Based on these recommendations, orders were issued in the Government Orders third cited revising the scales of pay of certain categories in various departments.

2) I am to state that Fitment Tables for fixation of pay in the corresponding revised pay scales have already been issued in the Appendix—I of the Government Order first cited. Consequent on the revision of scales of pay ordered in the Government Orders third cited, the scales of pay of some of the categories in various departments have been elevated from one Pay Band to another Pay Band for which the Additional Fitment Tables are required for fixing the pay of the employees holding such posts.

3) Accordingly, the Additional Fitment Tables 1 to 17 are annexed to this letter. The Head of Departments / Pay Fixing Authorities are requested to adopt the relevant Additional Fitment Tables for fixing the pay of the employees whose scales of pay have been revised based on the Government Orders issued in the reference third cited.

Yours faithfully,

Tirumurugananth 15.9.10

for Principal Secretary to Government.

Copy to:--
The Secretary to Hon'ble Chief Minister, Chennai—9.
The Secretary to Hon'ble Deputy Chief Minister, Chennai—9.
The Senior Personal Assistant to Hon'ble Minister, Finance, Chennai-9
The Private Secretary to Chief Secretary to Government, Chennai-9.
The Private Secretary to Principal Secretary to Government, Finance Department, Chennai-9.
Stock File / Spare Copies.

..../ 3 /

8.A careful perusal of the aforesaid extracted letter would reveal that the additional fitment tables 1-17 annexed to the aforesaid letter was with respect to the revision of scales of pay ordered in the Government Orders bearing G.O.Ms.Nos.254 to 340, Finance (pay cell) Department, dated 26.08.2010. Among G.O.Ms.Nos.254 to 340 dated 26.08.2010, G.O.Ms.No.270, Finance Department dated 26.08.2010, is with respect to the various posts in Elementary Education/School Education Department. The pay grievance redressal cell constituted in Government Order in G.O.Ms.No.123, Finance (pay cell Department) dated 10.04.2012, recommended for revision of scales of pay of BT Assistants, PG Assistants, Primary School Headmasters, Middle School Headmasters, High Secondary School Headmasters/District Educational Officers vide G.O.Ms.No.23, Finance (pay cell) Department, dated 12.01.2011. Accordingly, the Government directed that the scales of pay of the respective posts could be revised as under:-

S.No.	Name of Post	Existing scale of pay + grade pay	Revised scale of pay + grade pay
		Rs.	Rs.
1.	BT Assistant	9300-34800+4400	9300-34800+4600
2.	PG Assistant	9300-34800+4600	9300-34800+4800
3.	Primary School Headmaster	9300-34800+4300	9300-34800+4500
4.	Middle School Headmaster	9300-34800+4500	9300-34800+4700

5.	High Secondary School Headmaster/District Educational Officer	15600-39100+5400	15600-39100+5700

9.The category of Vocational Teachers/Vocational Instructors would fall under G.O.Ms.No.270, Finance (pay cell) Department, dated 26.08.2010. Certain anomalies in the revised pay structure for revision of scales of pay of certain categories in School Education/Teacher Education Research and Training Departments came to be rectified by the Government Order in G.O.Ms.No.263, Finance (pay cell) Department, dated 22.07.2013, more particularly, the anomalies with respect to the revision of scales of pay with respect to the revision of scale of pay of the post of Vocational Teachers/Vocational Instructors was rectified only vide G.O.Ms.No.263 dated 22.07.2013 and the scales of pay, which was revised is here under:-

Sl.No.	Name of the post	Existing Scale of pay + Grade pay	Revised Scale of pay + Grade Pay
		(Rs.)	(Rs.)
(1)	(2)	(3)	(4)
1	Tamil Pandit/Physical Director (High School) /Vocational Teachers/INstructors and other categories of Teachers in the cadre of BT Assistant	9300-34800+4400	9300-34800+4600

"The revision of scale of pay ordered in para – 1 above shall take notional effect from 01.01.2006 for the purpose of fixation of pay in the revised scale of pay with monetary benefit from 01.04.2013. However, the personal pay/special allowance sanctioned to the Principals in Government Teacher Training Institute shall take prospective effect from 01.04.2013."

10.The aforesaid G.O.Ms.No.263 dated 22.07.2013, mandated that the revision of scale of pay shall take notional effect from 01.01.2006 for the purpose of fixation of pay in the revised scale of pay with monetary benefit from 01.04.2013. **In furtherance to the implementation of Tamil Nadu Revised Scales of Pay, 2009, instructions with respect to fixation of pay of employees in selection grade/special grade came to be issued under letter No.63305/pay cell/2010-1 dated 08.11.2010, by the Principal Secretary to the Government to all the Departments. In the said letter, it was clarified that the Government Order in G.O.Ms.No.234, Finance (pay cell) Department, dated 01.06.2009, orders have been issued revising the scales of pay of employees/teachers notionally with effect from 01.01.2006 with monetary benefit from 01.01.2007.** In the revised pay structure, no separate scales of pay have been provided for selection grade/special grade holders. The employees on award of selection grade/special grade in the revised scales of pay have been granted and the benefit of one increment equal to 3 percent of basic pay including grade pay in the same pay band and grade pay. However, in the revised pay structure employees who were awarded selection grade/special grade prior to 01.01.2006, in the pre revised scales of pay were granted due protection by allowing them to move to the corresponding revised pay scales by virtue of the higher pre revised pay scales drawn by them. Further, in case of employees awarded selection grade/special grade between 01.01.2006 and 31.05.2006, that is, prior to the issuance of G.O.Ms.No.234, Finance (pay cell) Department, dated 01.06.2009, they were also permitted to exercise their option to come over to the revised scales of pay on the date of their award of selection grade/special grade, by foregoing the arrears entitled to them with effect from 01.01.2007, so that they were also allowed the same benefit as that of the employees, who were awarded selection grade/special grade prior to 01.01.2006. Accordingly, the guidelines for fixation of pay in the revised selection grade/special grade post came to be issued in the aforesaid letter dated 08.11.2010 and the guidelines in the aforesaid letter made it clear that the revised selection grade/special grade scales of pay in case of employees awarded selection grade/special grade prior to 01.01.2006 and in whose cases, the ordinary grade scales of pay have been revised based on the recommendations of One Man Commission by further Government Orders shall be fixed as per the scales of pay indicated in Annexure - I, which is annexed to the aforesaid letter No.63305/pay cell/2010-1 dated 08.11.2010 and the said Annexure No.I is extracted here under:-

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ANNEXURE - I

REVISED SELECTION GRADE AND SPECIAL GRADE SCALES OF PAY

Sl. No.	Ordinary Grade Rs.	Selection Grade Rs.	Special Grade Rs.
1)	4800—10000 + 1300	4800—10000 + 1650	5200—20200 + 1800
2)	4800—10000 + 1400	5200—20200 + 1800	5200—20200 + 1900
3)	4800—10000 + 1650	5200—20200 + 1900	5200—20200 + 2000
4)	5200—20200 + 1800	5200—20200 + 1900	5200—20200 + 2000
5)	5200—20200 + 1900	5200—20200 + 2400	5200—20200 + 2600
6)	5200—20200 + 2000	5200—20200 + 2400	5200—20200 + 2600
7)	5200—20200 + 2200	5200—20200 + 2600	5200—20200 + 2800
8)	5200—20200 + 2400	9300—34800 + 4200	9300—34800 + 4400
9)	5200—20200 + 2600	9300—34800 + 4200	9300—34800 + 4400
10)	5200—20200 + 2800	9300—34800 + 4300	9300—34800 + 4500
11)	9300—34800 + 4200	9300—34800 + 4400	9300—34800 + 4600
12)	9300—34800 + 4300	9300—34800 + 4600	15600—39100 + 5400
13)	9300—34800 + 4400	9300—34800 + 4600	15600—39100 + 5400
14)	9300—34800 + 4450	9300—34800 + 4600	15600—39100 + 5400
15)	9300—34800 + 4500	15600—39100 + 5400	15600—39100 + 5700
16)	9300—34800 + 4600	15600—39100 + 5400	15600—39100 + 5700
17)	9300—34800 + 4700	15600—39100 + 5700	15600—39100 + 6600
18)	15600—39100 + 5400//	15600—39100 + 6000	15600—39100 + 6600
19)	15600—39100 + 5700	15600—39100 + 6600	15600—39100 + 7600

Note : The above Selection Grade / Special Grade scales of pay indicated above takes notional effect from 1—1—2006 with monetary benefit from 1—1—2007 and is **applicable only to employees awarded Selection Grade / Special Grade prior to 1—1—2006 and employees who have opted for revised scale of pay on a subsequent date after 1—1—2006** i.e. on date of Selection Grade / Special Grade and in whose cases their Ordinary Grade scales of pay have been revised further based on the recommendations of One Man Commission / further Government orders.

// TRUE COPY //

Sridhar
8/11/2010

SECTION OFFICER.

11.The instant case is with respect to a Vocational Instructor, who was regularized in the post of Vocational Teacher on 16.10.1992 and who was later awarded selection grade and special grade on 16.10.2002 and 16.10.2012 respectively, that is, the petitioner was awarded with selection grade prior to 01.01.2006. In addition to that, it is pertinent to mention that, the ordinary grade scales of pay with respect to the post of Vocational Teachers/Instructors came to be revised on the basis of the revised scales of pay, 2009, on implementation of the recommendations of the One Man Commission followed by the pay grievance redressal cell constituted under the Government Order in G.O.Ms.No.234, Finance (pay cell) Department, dated 01.06.2009. To be more particular, ordinary grade scales of pay in the post of Vocational Teachers/Instructors came to be revised under G.O.Ms.No.263, Finance (pay cell) Department, dated 22.07.2013.

12.Since, the ordinary grade scales of pay in the post of Vocational Teachers/Instructors came to be revised under G.O.Ms.No.263 dated 22.07.2013 from Rs.9300-34800+4400 to Rs.9300- 34800+4600. In case of certain Vocational Instructors/Vocational Teachers, who are awarded with selection grade/special grade prior to 01.01.2006 and who have exercised their option to come over to the revised scales of pay on the date of their award of selection grade/special grade between 01.01.2006 and 31.05.2009, that is, prior to the issue of G.O.Ms.No.234, Finance (pay cell) Department dated 01.06.2009, the grade pay were revised from Rs.4,600 to Rs.5,400, by applying the additional fitment table pay scales of employees, who got the benefit of G.O.Ms.No.234, Finance (pay cell) Department dated 01.06.2009, under different Government Orders.

13.A feeble initiative was taken by the learned Additional Government Pleader by placing before me, G.O.Ms.No.270, Finance (pay cell) Department, dated 26.08.2010, explaining that the said G.O., was with respect to music mistress and training instructor (formerly motor mechanic and senior mechanic), submitting that the said Government Order will not be applicable for Vocational Instructors. However, on careful perusal of G.O.Ms.No.270, dated 26.08.2010, it could be understood that the same was with respect to revision of scales of pay and grant of special allowance to certain categories in Elementary Education/School Education Department in implementing the recommendations of One Man Commission, pursuant to G.O.Ms.No.234, dated 01.06.2009 and G.O.Ms.No.444, dated 09.09.2009. Having extended the benefit of revised scales of pay, 2009, to certain categories of Elementary Education/School Education Department, the same cannot be denied to other categories in Elementary Education/School Education Department. Vocational Teachers/Vocational Instructors obviously fall under one of the categories of School Education Department and I have no hesitation to hold that the various posts, more particularly, the Vocational Instructors/Vocational Teachers and other teaching categories under the Elementary Education/School Education Department would be very well covered under G.O.Ms.No.270 dated 26.08.2010 and hence, the benefit of additional fitment table pay scales of employees in letter No. 51082/pay cell/2010-1 dated 15.09.2010, would certainly cover the case of Vocational Instructors/Vocational Teachers and the category of Vocational Instructors would be covered by additional fitment table - 15. However, having revised the scales of pay of certain categories in School Education/Teacher Education Research and Training Departments including Vocational Teachers/Instructors vide G.O.Ms.No.263, Finance (pay cell) Department dated 22.07.2013, later the Government by letter No.66858/CMPC/2013-2 dated 22.08.2014, further clarified that though vide G.O.Ms.No.263 dated 22.07.2013, the scale of pay of Rs. 9300-34800+grade pay of Rs.4600/- granted to the BT Assistant was also extended to the category of Vocational Teachers notionally with effect from 01.01.2006, with monetary benefit from 01.04.2013, that is, revision of ordinary grade scale of pay, it is further clarified in the aforesaid letter that, since the Vocational Teachers are considered to be an equivalent post with BT Assistant and granted the revised scale of pay of Rs.9300-34800+grade pay of Rs.4600 on par with BT Assistant, based on the recommendations of pay grievance redressal notionally with effect from 01.01.2006 with monetary benefit from 01.04.2013 that revised selection grade scale of pay should also be regulated in the scale of pay of Rs.9400-34800 +grade pay of Rs.4800 as was followed in the pre revised scale of pay.

14.It is significant to find out here that the letter in Letter No. 66858/CMPC/2013-2 dated 22.08.2014, was issued by the Government contrary to the mandates of G.O.Ms.No.263 dated 22.07.2013 and the guidelines for fixation of pay in the revised selection grade/special grade post vide letter No.63305/pay cell/2010-1 dated 08.11.2010. Hence, the aforesaid letter in letter No.66858/CMPC/2013-2 dated 22.08.2014, came to be quashed by this Court in W.P.(MD)Nos.15980 and 17197 of 2014 dated 19.03.2018 and the relevant portion of the same is extracted as follows:-

> *"3. The scale of pay of Vocational Instructor was revised to 9300-34800+GP4600. This is the scale of pay payable to ordinary Vocational Instructor. Those who have put in 10 years of service would move to Selection Grade. Their revised scale of pay was 15600- 39100+GP5400. This is the evident from the proceedings of the Principal Accountant General, Chennai, dated 14.07.2014.*
>
> *4. In the said proceedings, it has been mentioned that such a revision of scale of pay was admissible with monetary benefit only from 01.04.2013. But, by subsequent letter dated 22.08.2014, the Government took a stand that the revised selection grade scale of pay for the Vocational Teachers would also be 9300-34800+GP 4800. This runs counter to the earlier G.O.Ms.263 dated 22.07.2013. The said subsequent Government*

letter is impugned in these writ petitions.

5. The subsequent Government letter suffers from two errors. Firstly, it equates Vocational Instructor with BT Assistant. Such an equation is not sustainable for more than one reason. BT Assistant has more than one promotional avenue. Vocational Instructor remains Vocational Instructor during their entire career. That apart in G.O.263 dated 22.07.2013, what was laid down was the revised scale of pay for ordinary Vocational Instructor. Ordinary Vocational Instructor would get a Grade Pay of Rs.4,600 but then a selection grade Vocational Instructor will get a Grade Pay of Rs.5,400/-.

6. A Government letter cannot prevail over a Government order issued under Article 162 of the Constitution of India. But then, as per the proceedings of the Principal Accountant General, Chennai, the monetary benefits can be given only from 01.04.2013. If they have been mistakenly given from the earlier date, the excess pay has to be recovered."

15.Though the aforesaid letter which was quashed in the aforesaid order, this Court observed that the monetary benefits however, could be given only from 01.04.2013, in terms of para 3 of G.O.Ms.No.263 dated 22.07.2013 and if mistakenly monetary benefits have been given from the earlier date, the excess pay can be recovered. However, this Court in yet another case in W.P.No.9197 of 2017 dated 22.08.2023, quashed the aforesaid letter No.66858/CMPC/2013-2 dated 22.08.2014, in so far as it gives monetary benefits to the beneficiaries with effect from 01.04.2013 and in so far as it restricts the selection grade scale of pay of Vocational

Instructor at Rs.9300-34800+4800 grade pay, thereby fixing the selection grade pay of the petitioner who was a Vocational Instructor at Rs.15600-39100+5400 from 01.01.2011 with monetary benefits. In order to give quietus to the entire issue, the Government issued G.O.Ms.No. 306, Finance (CMPC) Department dated 12.09.2018, in which after due consideration of the fact that BT assistants grade pay is Rs.4800/- and that they have promotional avenue while the Vocational Instructors who are taking classes for Higher Secondary, do not have promotional avenue, concluded that after getting necessary financial concurrence that the grade pay of the Vocational Instructions could be revised from Rs. 4800 to Rs.5400. Pursuant to the issuance of G.O.Ms.No.306 dated 12.09.2018, the grade pay of Vocational Instructors were revised at Rs. 5400/-, by applying the benefit extended under G.O.Ms.No.234, Finance (pay cell) Department dated 01.06.2009. In view of the issuance of G.O.Ms.No.306 dated 12.09.2018, by the Government, para no.3 of G.O.Ms.No.263, Finance (pay cell) Department dated 22.07.2013 and consequential recovery orders were quashed in W.P.No.2950 of 2014 and batches, by order dated 03.02.2020, by this Court.

16.In view of the various decisions of this Court in this issue, now the issue of grade pay of Vocational Instructor is fixed at Rs.5,400/- with effect from 01.01.2006 and the monetary benefit have to be disbursed from 01.01.2011, in terms of the order passed by this Court in W.P.No.

9197 of 2017 dated 22.08.2023. Based on revision of grade pay of Vocational Instructor as Rs.5,400/-, the concerned officials have prepared necessary proposal for revision of scale of pay by applying Rule 4(1) of Tamil Nadu Revised Scales of Pay Rules, 2009. Accordingly, the pay scale and pensionary benefits of the writ petitioner was also revised. Now, however, pursuant to the objections raised by the Accountant General Department, the official respondents have held that the revision of scale of pay by applying formula framed under Rule 4(1) of Tamil Nadu Revised Scales of Pay Rules, 2009, vide finance Letter No.51082/pay cell/2010-1, dated 15.09.2010, is not applicable to the writ petitioner and has ordered for recovery. The said exercise is impugned in this Writ Petition. The Tamil Nadu Revised Scale of Pay Rules, 2009, was framed by the Government for the purpose of fixing revised pay structure. The ordinary grade scale of pay in the category of Vocational Teachers/Vocational Instructors/BT Assistants was revised under G.O.Ms.No.263, Finance (pay cell) Department, dated 22.07.2013, from Rs.9300-34800+4400 to Rs.9300-34800+4600. The scale of pay for selection grade BT Assistants was fixed at Rs.9300-34800+grade pay Rs. 4800/-. As the Vocational Instructors were considered to be equivalent with BT Assistants, their selection grade pay was also regulated in the scale of pay of Rs.9300-34800+grade pay Rs.4800/-. Pursuant to the order passed by this Court in W.P.(MD)Nos.2654, 2924 and 2663 of 2018 and W.P.(MD)Nos.15980 and 17197 of 2014 dated 19.03.2018, G.O.Ms.No.306, Finance (pay cell) Department, dated 12.09.2018, came to be issued, refixing the scale of pay of Vocational Instructors at Rs. 15600-39100+grade pay 5400 notionally with effects from 01.01.2006 or the date of award of selection grade in the post of Vocational Instructor with monetary benefits from 01.04.2013. Based on the revision of scale of pay of Vocational Instructors as on 01.01.2006, rightly the pay band/pay scale of Vocational Instructor including the writ petitioner has been determined by multiplying the existing basic pay as on 01.01.2006, by a factor of 1.86 and rounding of the resultant figure to the next multiple of 10 as per Rule 4(1)(i)&(iii) of the Tamil Nadu Revised Scales of Pay Rules, 2009 and therefore, question of revising the same will not arise. Since the Vocational Instructors were already extended with the benefit of G.O.Ms.No.234, Finance (pay cell) Department dated 01.06.2009, then the benefit of additional fitment table issued by the Government vide letter No.51082/pay cell/2010-1, dated 15.09.2010, under Rules 4(1)(i)&(iii) of the Tamil Nadu Revised Scale of Pay Rules, 2009, is automatic and the same cannot be denied to the petitioner. Accordingly, the impugned order is hereby quashed, since the same is passed without considering the scope of G.O.Ms.No.306, dated 12.09.2018 and the order passed by this Court cited in Reference No.8 of the aforesaid G.O.

17.Accordingly, the Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

18.02.2025

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

To

1.The Director of School Education,
DPI Campus, College Road,
Chennai.

2.The Accountant General (Accounts and Entitlements),
Accountant General Department,
Chennai 600 018.

3.The District Educational Officer,
Karur, Karur District.

L.VICTORIA GOWRI, J.

Mrn

W.P.(MD)No.9087 of 2021

18.02.2025