

W.P.(MD) No.22199 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 21.07.2025

Pronounced On : 31.07.2025

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.P. (MD) No.22199 of 2017

and

W.M.P.(MD)No.18525 of 2017

D.Bennet Anbunath,
S/o.Devaraj,
11/283 G7 Dev Ananth Illam,
Plot No.3, Pasumai Nagar,
Ponnagar, Karaikudi,
Sivagangai District.

... Petitioner

Vs.

1. The Joint Director
School Education (High Secondary),
DPI Campus, College Road,
Nunkampakkam,
Chennai - 600 006.
 2. The District Educational Officer,
Devakottai,
Sivagangai District.
 3. The Secretary
Ramanathan Chettiar Higher Secondary School,
Puduvayal, Karaikudi (Taluk),
Sivagangai District.
- ... Respondents



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PRAYER in W.P.:

To issue a writ of Certiorarified Mandamus or any other appropriate order or direction to call for the records of impugned order O.Mu.2211/A3/2013 dated 20.05.2014 of the 2nd respondent and quash the same and direct the respondents to consider the petitioner's representation dated 15.06.2017 and fix the revised scale of pay compared with other post graduate teachers working in his school and pass such further or other orders as this Court may deem fit and thus render justice.

PRAYER in W.M.P.:

To pass an order dispensing with the production of 2nd respondent original impugned proceedings in O.Mu.2211/A3/2013 dated 20.05.2014 pending disposal of the writ petition and thus render justice.

APPEARANCE OF PARTIES:

For Petitioner : Mr.C.S.Ravichandran

For Respondents : Mr.T.Amjad Khan
Government Advocate for R1 & R2

: No appearance for R3

J U D G M E N T

Heard.



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2. The writ petition has been filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order of the second respondent dated 20.05.2014 in O.Mu.No.2211/A3/2013, whereby the earlier pay revision granted to the petitioner was cancelled and a recovery of Rs.1,53,400/- was directed, and to consequently direct the respondents to consider the petitioner's representation dated 15.06.2017 and fix his scale of pay on par with other similarly placed Postgraduate Teachers in his school.

3. The petitioner was appointed as Physical Education Teacher on 17.08.2001 in the third respondent school. He was later promoted as Postgraduate Teacher in Economics on 02.06.2008. At the time of his promotion, his basic pay was fixed at Rs.10,500/-.

4. The petitioner claims that one S. Gladiya, who was directly appointed as Postgraduate Teacher in Zoology on 12.01.2009 in the same school, was drawing Rs.55,143/- as salary while he, despite being senior and holding the same qualifications, was paid Rs.48,471/- per month. On



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this ground, he made a representation for pay revision to bring him on par with the said Gladiya, and the same was accepted in terms of the proceedings dated 30.09.2010 issued by the second respondent and his basic pay was fixed at Rs.16,690/- with effect from 02.06.2008.

5. However, based on audit objection, the second respondent issued the impugned proceedings dated 20.05.2014 cancelling the revised pay fixation and directed recovery of the alleged excess drawn amount. The petitioner was compelled to refund Rs.1,53,400/- through Treasury challan on 09.06.2015. His subsequent representation dated 15.06.2017 seeking restoration of the revised pay and refund of the recovered amount went unanswered.

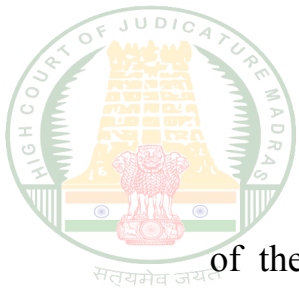
6. Learned counsel for the petitioner raised a point and pressing query before this Court. He submitted that both the petitioner and S. Gladiya perform the same work, discharge identical duties as Postgraduate Teachers in the same school, and hold equivalent qualifications. Yet, despite being senior in service and having been promoted earlier, the petitioner receives a lower pay than a junior who entered service later through direct recruitment. Counsel asked in



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professional earnestness - how can such a disparity be justified under law and fairness? How can the same post, same work, same responsibilities, and same qualifications result in unequal pay merely because of the mode of appointment?. The Court notes the depth of this concern, which *prima facie* appears compelling and deserving of a reasoned examination.

7. On the side of the second respondent, it is contended that the pay revision granted to the petitioner in 2010 was erroneous, as it sought to equate a promote with a direct recruit. It is explained that the petitioner, on being promoted on 02.06.2008, had his pay fixed under Rule 10 of the Tamil Nadu Revised Scales of Pay Rules, 2009. His last drawn pay in the feeder post was Rs.10,140/- with a Grade Pay of Rs.2,800/-. Upon promotion, he was granted 3% increment (Rs.300) and the higher Grade Pay of Rs.4,800, resulting in a basic pay of Rs.10,440/- + Rs.4,800/- = Rs.15,240/-. This rose to Rs.15,700/- on 01.04.2009 after increment. In contrast, S. Gladiya, directly appointed on 12.01.2009, attracted Rule 9, which prescribes an entry pay of Rs.12,090 with a Grade Pay of Rs.4,800/- for the post of Postgraduate Teacher, totaling Rs.16,890/- from day one. The disparity, therefore, was a direct outcome



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of the rules: Rule 10 carries forward past pay history for promotees, whereas Rule 9 secures a higher statutory floor for direct recruits, unaffected by earlier scales.

8. The further contention was that the temporary fixation of the petitioner's pay on par with Gladiya in 2010 ignored these distinct provisions and was irregular. The audit objection rightly noticed that there was no Government Order authorising stepping-up of a promotee's pay vis-a-vis a direct recruit under different rules. G.O. Ms. No. 240, Finance (Pay Cell) Department, dated 22.07.2013, only permits employees to exercise a one-time re-option to come under revised scales between 01.01.2006 and 31.05.2009 but does not provide parity or allow bypassing the separate mechanisms under Rules 9 and 10. On these facts, the recovery of excess payment was defended as lawful and unavoidable under the statutory framework.

9. The learned Government Advocate emphasized that the petitioner's grievance cannot be sustained under the Pay Rules. The disparity is not an administrative mistake but the logical consequence of the prescribed methods of fixation. The rules do not envisage equalising



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pay between a senior promotee and a junior direct recruit when their scales were determined under different legal provisions.

10. Whether the disparity complained of amounts to a pay anomaly warranting stepping-up is not a question that can be conclusively determined by this Court on the present record. The issue turns on a factual and comparative analysis of pay fixation under Rule 9 and Rule 10 of the Tamil Nadu Revised Scales of Pay Rules, 2009, the effect of G.O. Ms. No. 240 dated 22.07.2013, and any applicable policy instructions governing parity between promotes and direct recruits. These matters fall primarily within the domain of the competent administrative authority. Nonetheless, the grievance raised by the petitioner cannot be brushed aside as unfounded. The principles of fairness and non-discrimination require that his representation be considered objectively, after affording him a personal hearing, and that a reasoned decision be taken addressing the concerns raised by the petitioner of unequal pay for equal work, while applying the governing rules and ensuring that similarly placed teachers are treated equitably.



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11. On the question of recovery, this Court would note that the pay revision was granted by the competent authority in 2010 based on the petitioner's representation. The petitioner had no role in computing the revised pay and received the salary in good faith for nearly four years before the recovery was initiated. There is no allegation of fraud, misrepresentation, or suppression on the part of the petitioner.

12. The impugned order dated 20.05.2014 was passed unilaterally without even issuing a show cause notice or affording any opportunity of hearing to the petitioner. The recovery of Rs.1,53,400/- was enforced coercively, and the petitioner had to deposit the amount to avoid further adverse consequences. Such action is in clear violation of the principles of natural justice.

13. The Hon'ble Supreme Court in *State of Punjab v. Rafiq Masih* reported in *[(2015) 4 SCC 334]* has categorically held that recovery of excess payment made due to administrative error, particularly from Class III and IV employees and promotees, after a long lapse of time, is impermissible in law. The Court laid down equitable exceptions



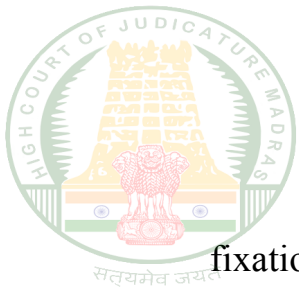
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to the general rule of recovery. The present case squarely falls within those exceptions.

14. Accordingly, the recovery of Rs.1,53,400/- effected from the petitioner is held to be illegal and contrary to law. The petitioner is entitled to refund of the said amount along with interest.

15. Therefore, the impugned order, having been passed in violation of the principles of natural justice, is liable to be quashed. Accordingly, the impugned order is quashed. As a consequence, the respondent is directed to refund the amount Rs.1,53,400/- recovered from the petitioner, within a period of four (4) weeks from the date of receipt of a copy of this order.

16. The respondent is directed to consider and dispose of the petitioner's representation dated 15.06.2017. For administrative convenience and to avoid delay, the petitioner shall furnish a copy of the said representation or, if necessary, submit a fresh representation to the authorities. Upon receipt, the authorities shall afford the petitioner an opportunity of personal hearing and pass a reasoned order on his pay



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fixation. If required, the comparator, Ms. Gladiya, may also be heard before final orders are passed. The entire exercise shall be completed within eight (8) weeks from the date of receipt of a copy of this order.

17. The writ petition is partly allowed to the extent indicated above. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

31.07.2025

Index: Yes / No
Speaking Order / Non-speaking Order
Neutral Citation : Yes / No
LS

To

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Nunkampakkam,
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DR. A.D. MARIA CLETE, J.

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Pre-delivery Judgment made in
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