

(2002) 12 MAD CK 0163

In the Madras High Court

Case No : Writ Petition No. 4554 of 1996

J. Mahendran James

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 13-12-2002

Acts Referred:

Citation : (2003) WritLR 91

Hon'ble Judges : A.S. Venkatachalamoorthy, J

Bench : Single Bench

Advocate : K. Suguna, for the Appellant; Thenmozhi Sivaperumal, Addl. Govt. Pleader, for the Respondent

Final Decision : Allowed

Judgement

A.S. Venkatachalamoorthy, J.—The prayer that is sought for in the writ petition is for the issue of writ of Certiorari to call for the records relating to the order of the first respondent dated 7.4.1994 issued in G.O.(RT) No.273 Education, Science and Technology (HS3) Department and quash the same as far as the petitioner is concerned.

2. The short facts are, the petitioner was appointed as a Double Part Time Vocational Instructor on 12.3.1987 on a fixed salary. By virtue of G.O.Ms.No.967 Education (HS3) Department dated 16.10.1992, the petitioner was brought into the stream of full time employee with time scale of pay of Rs.1400-2600. Thereafter, the Government issued G.O.Ms.No.273 dated 7.4.1994 which came into effect on 1.9.1994 cancelling the earlier G.O.Ms.No.967 Education (HS3) Department dated 16.10.1992. Most of the persons similarly placed like the petitioner filed writ petitions and obtained interim stay of the operation of G.O.Ms.No.273 dated 7.4.1994 and continued to draw the time scale of pay. Unfortunately, the petitioner did not file one such writ petition. Thereafter, the Government passed another G.O.Ms.No.834 dated 23.9.1994 cancelling the earlier Government Order namely G.O.Ms.No.273 dated 7.4.1994, thereby, the petitioner and others similarly placed were treated as full time teachers and were

given the time scale of pay. In view of the fact that the petitioner did not file a writ petition questioning the validity of G.O.Ms.No.273 dated 7.4.1994 the petitioner could not get the time scale of pay for the period from 1.5.1994 to 22.9.1994 like others who filed writ petitions and obtained orders of stay.

3. The request/claim of the petitioner now is that the difference in salary that is between fixed salary and time scale of pay for the said period that is 1.5.1994 to 22.9.1994 should be paid to him. The grievance of the petitioner is genuine and should be given the proper remedy. When almost all the teachers who were similarly placed like the petitioner were paid the time scale of pay for the period from 1.5.1994 till 22.9.1994, for whatever may be the reason, in all fairness, the respondents must pay the petitioner also the time scale of pay for the period from 1.5.1994 to 22.9.1994. In fact, the Supreme Court has ruled that the Government must set an example as a model employer. In matters like this, the Government must take a pragmatic and generous approach rather than to deny the benefit to the petitioner on/for some ground / reason.

4. We direct the concerned respondent to pay the petitioner the time scale of pay for the period from 01.05.1994 till 22.09.1994. We reiterate that we are giving the above direction for two reasons viz.,

(i) the Government itself passed G.O.Ms.No.834 dated 23.09.1994 cancelling the earlier G.O. Ms. No.273 dated 07.04.1994; and

(ii) most of the persons, similarly placed like the petitioner, had the benefit of time scale of pay for the said period.

5. In this view of the matter, the writ petition is allowed as indicated above. No costs. Consequently, W.M.P.No.7319 of 1996 for direction is closed.