

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.Nos.1095 to 1108 of 2014
and

M.P.Nos.1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1 and 1 of 2014

K.Gopalakrishnan ... Petitioner in W.P.No.1095 of 2014
V.Mangayarkarasi ... Petitioner in W.P.No.1096 of 2014
V.Senthil Kumar ... Petitioner in W.P.No.1097 of 2014
K.Bhuvaneswari ... Petitioner in W.P.No.1098 of 2014
R.Sampathkumar ... Petitioner in W.P.No.1099 of 2014
R.Devarajan ... Petitioner in W.P.No.1100 of 2014
N.Thukkaiappan ... Petitioner in W.P.No.1101 of 2014
S.Michael Gnanaraj ... Petitioner in W.P.No.1102 of 2014
T.Krishnaswamy ... Petitioner in W.P.No.1103 of 2014
K.Vijayakumar ... Petitioner in W.P.No.1104 of 2014
N.Arumugam ... Petitioner in W.P.No.1105 of 2014
P.Kanthimathi ... Petitioner in W.P.No.1106 of 2014
P.Gnanambikai ... Petitioner in W.P.No.1107 of 2014
V.Gunasekaran ... Petitioner in W.P.No.1108 of 2014

vs.

1.The Government of Tamil Nadu
rep.by the Principal Secretary to Government
of Tamilnadu,
Higher Education (C2) Department,
Fort St.George,
Chennai - 600 009.

2.The Commissioner of Technical Education,
Directorate of Technical Education,
Guindy, Chennai - 600 025.

3.Nachimuthu Polytechnic College,
rep.by its Principal Incharge,
Makkinaickanpatti P.O.
Pollachi - 642 003.

.. Respondents in all the above
Writ Petitions.

Writ Petition Nos.1095 to 1097 of 2014, 1099 of 2014, 1104 of 2014, 1106 to 1108 of 2014 of 2014 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus after calling for the records from the 3rd respondent relating to the order dated 8.11.2011 bearing Reference No.A2/189/2010 read with Order dated 22.11.2013 bearing Reference No.B2/63/2012, quash the same as illegal, arbitrary, unconstitutional, without jurisdiction and consequently direct the respondents 1 to 3 to restore the Grade Pay of Rs.8,000/- to the writ petitioners from 4.5.2009 and grant further benefits which the petitioners are entitled to together with arrears.

Writ Petition No.1098 of 2014 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus after calling for the records from the 3rd respondent relating to the order dated 8.11.2011 bearing Reference No.A2/189/2010 read with Order dated 22.11.2013 bearing Reference No.B2/63/2012, quash the same as illegal, arbitrary, unconstitutional, without jurisdiction and consequently direct the respondents 1 to 3 to restore the Grade Pay of Rs.8,000/- to the writ petitioners from 29.04.2010 and grant further benefits which the petitioners are entitled to together with arrears.

Writ Petition No.1102 of 2014 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus after calling for the records from the 3rd respondent relating to the order dated 8.11.2011 bearing Reference No.A2/189/2010 read with Order dated 22.11.2013 bearing Reference No.B2/63/2012, quash the same as illegal, arbitrary, unconstitutional, without jurisdiction and consequently direct the respondents 1 to 3 to restore the Grade Pay of Rs.8,000/- to the writ petitioners from 24.03.2009 and grant further benefits which the petitioner is entitled to together with arrears.

Writ Petition No.1103 of 2014 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus after calling for the records from the 3rd respondent relating to the order dated 8.11.2011 bearing Reference No.A2/189/2010 read with Order dated 22.11.2013 bearing

Reference No.B2/63/2012, quash the same as illegal, arbitrary, unconstitutional, without jurisdiction and consequently direct the respondents 1 to 3 to restore the Grade Pay of Rs.8,000/- to the writ petitioners from 1.12.2009 and grant further benefits which the petitioner is entitled to together with arrears.

Writ Petition No.1105 of 2014 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus after calling for the records from the 3rd respondent relating to the order dated 8.11.2011 bearing Reference No.A2/189/2010 read with Order dated 22.11.2013 bearing Reference No.B2/63/2012, quash the same as illegal, arbitrary, unconstitutional, without jurisdiction and consequently direct the respondents 1 to 3 to restore the Grade Pay of Rs.8,000/- to the writ petitioners from 8.10.2009 and grant further benefits which the petitioner is entitled to together with arrears.

Writ Petition No.1100/2014 and 1101/2014 filed under Article 226 of the Constitution of India to issue a writ of certirarified Mandamus after calling for the records from the 3rd respondent relating to the order dt 8.11.2011 bearing reference No.A2/189/2010 read with order dt 22.11.2013 bearing reference No. B2/63/2012 quash the same as illegal arbitrary unconstitutional without jurisdiction and consequently direct the respondents 1 to 3 to restore the Grade pay of Rs. 8000/- to the writ petitioner from 4.5.2009 and from 13.5.2009 respectively and grant further benefits which the petitioners are entitled to together with arrears.

For petitioner in all
the above WPs

: Mr.K.Srinivasamurthy
for M/s.Row and Reddy

For respondents 1 & 2
in all the above WPs

: Mr.V.Ayyathurai
Additional Advocate General
assisted by Mr.S.Navaneethan,
Additional Government Pleader

For 3rd respondent
in all the above WPs

: Mr.D.Balaraman

COMMON ORDER

The case of the petitioners in these Writ Petitions is that they were initially appointed as Instructors, and subsequently, they were upgraded as Lecturers and Senior Lecturers in the third respondent Polytechnic College. Later, G.O.Ms.No.111 dated 25.5.2010 was issued by the Government of Tamil Nadu revising the Pay Scales to the Government and Government Aided Polytechnic College Teachers as per All India

Council of Technical Education (AICTE) Notification in the Gazette of India dated 5.3.2010. As per this Government Order, the revised Pay Scale would take notional effect from 01.01.2006 and monetary benefit from 01.01.2007. The Academic Grade Pay of Rs.7,000/- was the corresponding AGP to the post of Senior Lecturers and the pre-revised pay structure corresponding to the said post. In pursuance of the aforesaid Government Order, the 3rd respondent-Principal revised the Scale of Pay with AGP at Rs.8,000/-. Thereafter, with a modification, the 3rd respondent College has issued Revised Order re-fixing the Scale of Pay by order dated 8.11.2011 directing the petitioners to remit the excess arrears payment made as stated in their respective orders of the petitioners. Thereafter, the third respondent issued another Order bearing Ref.No.B2/63/2012 dated 22.11.2013 reducing the pay of the petitioners retrospectively without any notice being issued to the petitioners. The petitioners made requests to the respondents to re-fix the Academic Grade Pay at Rs.8,000/- as and when they complete 5 years or more than 5 years of service on or after 01.01.2006 counting the period of service from the date of award of corresponding pre-revised Senior Scale of Rs.10,000-325-15200 and also to fix the AGP of Rs.9,000/- after the completion of 3 years in the AGP of Rs.8,000/- designating as Lecturer (Selection Grade). These requests were rejected in the impugned order passed by the third respondent management. Hence, the present Writ Petitions have been filed before this Court.

2. Heard the learned counsel for the petitioners and the learned Additional Advocate General for respondents 1 and 2 and learned counsel for the third respondent.

3. Among other things, it is specifically submitted by the learned counsel for the petitioners that in an identical case, where a similarly placed Lecturer, namely, D.Subramanian, preferred a Writ Petition, viz., W.P.No.19592 of 2010 before this Court seeking similar relief as sought for in the present Writ Petitions and this Court disposed of the said Writ Petition while setting aside the impugned order passed by the third respondent therein with a direction to the the third respondent to get clarification from the second respondent therein as to the scope and applicability of the Clarification issued by the Government vide Letter No.5928/H1/2010-3 dated 13.8.2010, wherein it was clarified by the Government that "movement from AGP of Rs.7,000 to AGP of Rs.8,000/- may be allowed after completion of 5 years of service from the date of award of senior scale and not after 5 years period in the AGP of Rs.7,000/- shall be accepted subject to the other requirements laid down by the UGC or conditions laid down by the State Government/Universities". Subsequently, the All India Council for Technical Education vide Notification dated 4.1.2016 vide the Gazette of India dated 6.1.2016, at Page 28, clarified the same thing, which is as follows.

45	Clarification invited regarding counting of service period rendered in pre-revised Pay Scale (Rs.10000-15200) as a Lecturer (Senior Scale) prior to 1.1.2006 for the upward movement of Lecturer from AGP of Rs.7000 to AGP of Rs.8000 in Para a (ix) of Lecturer in Polytechnic in the AICTE Regulations, 2010.	The period specified in the AICTE Regulations, 2010 for upward movement of Lecturer from AGP of Rs.7000 to AGP of Rs.8000 shall be counted from the date of placement of Lecturer in the corresponding pre-revised Pay Scale.
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According to the learned counsel for the petitioners, in view of the clarification issued by the AICTE, the third respondent shall refix the AGP as stated in the clarification.

4. Additional Counter Affidavit dated 21.02.2017 has been filed by the second respondent wherein it is stated that, based on the aforesaid clarification, by Letter No.1495/A3/2013, dated 9.3.2016, the second respondent has recommended for taking into account of the earlier services rendered by the teaching staff for Grade Pay movement from Rs.7,000/- to Rs.8,000/- and the same is under consideration before the first respondent.

5. The learned Additional Advocate General reiterating the said averments made in the Additional Counter Affidavit submitted that the second respondent is awaiting orders from the Government to implement the aforesaid clarification issued by the AICTE.

6. Taking into consideration of the above facts and recording the above said submission made by the learned Additional Advocate General, this Court directs the first respondent to pass appropriate orders in the light of the clarification Notification dated 6.1.2016 issued by the All India Council for Technical Education and Letter No.1495/A3/2013 dated 9.3.2016 addressed by the 2nd respondent, as expeditiously as possible, preferably, within a period of four months from the date of receipt of a copy of this order. By consent of the parties, the impugned order passed by the third respondent College is kept in abeyance till an order is passed by the first respondent as directed. Thereafter, it is open to the petitioners to approach the third respondent for necessary claim.

7. In result, the Writ Petitions are disposed of, with the above direction. Connected Miscellaneous Petitions are closed. No costs.

Sd/--

Asst.Registrar

/true copy/

Sub Asst. Registrar

asvm

<https://hcservices.ecourts.gov.in/hcservices/>

To

- 1.The Principal Secretary to
Government of Tamilnadu,
Higher Education Department,
Fort St.George,
Chennai - 600 009.
- 2.The Commissioner of Technical Education,
Directorate of Technical Education,
Guindy, Chennai - 600 025.
- 3.The Principal Incharge,
Nachimuthu Polytechnic College,
Makkinaickanpatti P.O.
Pollachi - 642 003.

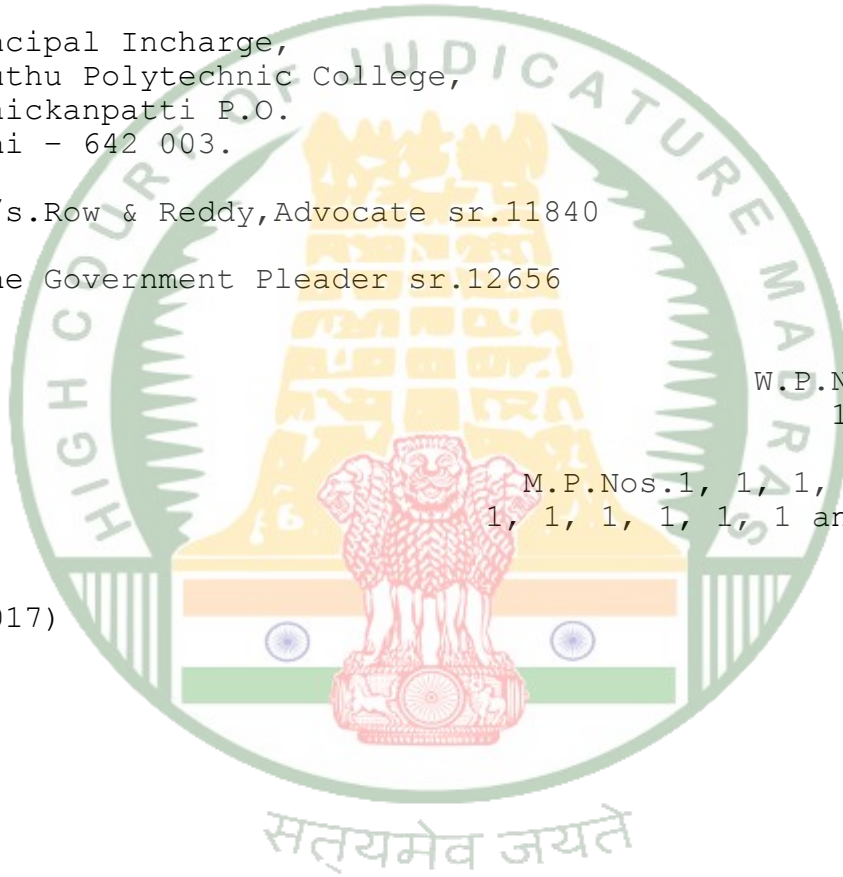
+1cc to M/s.Row & Reddy,Advocate sr.11840

+1cc to The Government Pleader sr.12656

W.P.Nos.1095 to
1108 of 2014
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1, 1, 1, 1, 1 and 1 of 2014

mp(co)
ss(11/5/2017)



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