

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07-09-2017

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P. No.36506 of 2016

And

M.P.Nos.31416 and 31417 of 2016 and WMP No.12948 of 2017

1.V.P.Venkatesh Prabu

2.V.K.Ganthimathi

3.S.Karthik

..... Petitioners

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary,
Public Works Department,
Fort St. George,
Chennai-9.

2. The Engineer-in-Chief (WRO) &
Chief Engineer (GI), PWD,
Chepauk,
Chennai-5.

3. The Executive Engineer (PWD),
Buildings Division-3,
Medical Works,
Chepauk,
Chennai-5.

4. The Executive Engineer (PWD),
WRO Special Design Division-1,
Chepauk,
Chennai-5.

5. The Pay and Accounts Officer (East),
Egmore,
Chennai-3.

.... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned orders, viz., Letter No.10577/D2/2012-20 dated 19.3.2014 issued by the Secretary to

first respondent and quash the same and further direct the respondents 1, 2 and 5 to pay the petitioner adequate compensation for forcing the petitioner to file this writ petition without any legal cause and to meet out the cost of this litigation.

For Petitioner : Mr.N.Subramaniyan
For Respondents : Mr.K.Dhananjayan,
Special Government Pleader.

O R D E R

The order of rejection dated 19.3.2014, issued by the first respondent, is under challenge in this writ petition.

2. The learned counsel appearing for the writ petitioner made a submission that the issue was already considered by this Court in W.P.No.33440 of 2015 and final order was passed on 30.1.2017 which is extracted as under:

"12. Therefore, the writ petition is partly allowed and the impugned order of the first respondent dated 19.3.2014 is hereby set aside. The matter is remanded back to the third respondent, who in turn shall take into consideration the letter of the Finance Department bearing Clarification Letter No.34124/(Pay Cell)/2009-1, dated 26.6.2009 as well as the G.O.Ms.No.97 dated 5.7.2010 and pass appropriate orders on merits in accordance with law, as expeditiously as possible, preferably, within a period of eight weeks from the date of receipt of a copy of the order and communicate the decision taken to the petitioner. Consequently, connected miscellaneous petitions are closed. No costs."

3. However, the learned counsel for the writ petitioner submits that the advance incentive increments were granted to the writ petitioner and therefore, the question of reconsideration will not arise.

4. Per contra, the learned Special Government Pleader, appearing on behalf of the respondents, made a submission that the writ petitioner is receiving the additional incentive increments by virtue of the interim order granted in M.P.No.2 of 2015 in W.P.No.33440 of 2015. In this regard, the learned Special Government Pleader refers to paragraph-6 of the counter filed by the respondents 1 to 4, which is extracted hereunder:

"It is submitted that the Government in G.O.(Ms.) No.154, Personnel and Administrative Reforms Department, dated 26.10.2010 issued orders dispensing with the scheme of sanction of advance increments to the Government Servants who acquired Post Graduate qualification viz., Master of Business Administration from the recognised Universities (including open Universities) from the date of issue of that order. Further, in G.O.(Ms) No.234, Finance (Pay Cell) Department, dated 1.6.2009 pertaining to implementation of the Revised Scale of Pay Rules, 2009 w.e.f. 1.6.2006, no rule provision was made in respect of the system of grant of two/three advance increments for acquisition of P.G./Ph.D Degree. Therefore, the first respondent in letter No.10577/D2/2012-20, Public Works Department, dated 19.3.2014 clarified that advance increments for acquisition of P.G./Ph.D., qualification could not be made applicable to the individual under the Tamil Nadu Revised Scale of Pay Rules, 2009. The aforesaid clarification issued by the Government is neither erroneous nor arbitrary as contended. Regarding the contention that the Revised Scale of Pay Rules, 2009 nowhere state that the existing scheme of advance increments for P.G. Degree is discontinued. It is submitted that the same Rules do not state anywhere that such increments should be sanctioned. The averment that the incumbent Secretary had acted with a mala fide intention has no basis and it is hereby denied. Regarding the averment that sanction of increments based on the orders passed by this Hon'ble Court, the affidavit does not disclose the specific cases in which such orders were passed. The allegation of bias and victimisation against the first respondent herein has also no basis."

5. However, the learned counsel for the writ petitioner denies that the increment was granted pursuant to the interim order granted by this Court. In this view of the mater, this Court is of the view that this Court on the same issue passed an order on 30.1.2017 remanding the matter back to the third respondent for reconsideration.

6. Thus, the facts regarding these aspects may be reconsidered by the respondents in accordance with Government Orders in force. Accordingly, the writ petition is partly allowed and the impugned order of the first respondent dated 19.3.2014 is hereby set aside and the matter is remanded back to the third respondent, who in turn shall take into consideration the letter of the Finance Department bearing Clarification Letter No.34124/(Pay Cell)/2009-1, dated 26.6.2009 as well as the G.O.Ms.No.97 dated 5.7.2010 and pass appropriate orders on merits in accordance with law, as expeditiously as possible, preferably, within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken to the writ petitioner. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

Svn

To

1. The Secretary,
The Government of Tamil Nadu,
Public Works Department,
Fort St. George,
Chennai-9.
2. The Engineer-in-Chief (WRO) &
Chief Engineer (GI), PWD,
Chepauk,
Chennai-5.
3. The Executive Engineer (PWD),
Buildings Division-3,
Medical Works,
Chepauk,
Chennai-5.

4. The Executive Engineer (PWD),
WRO Special Design Division-1,
Chepauk,
Chennai-5.

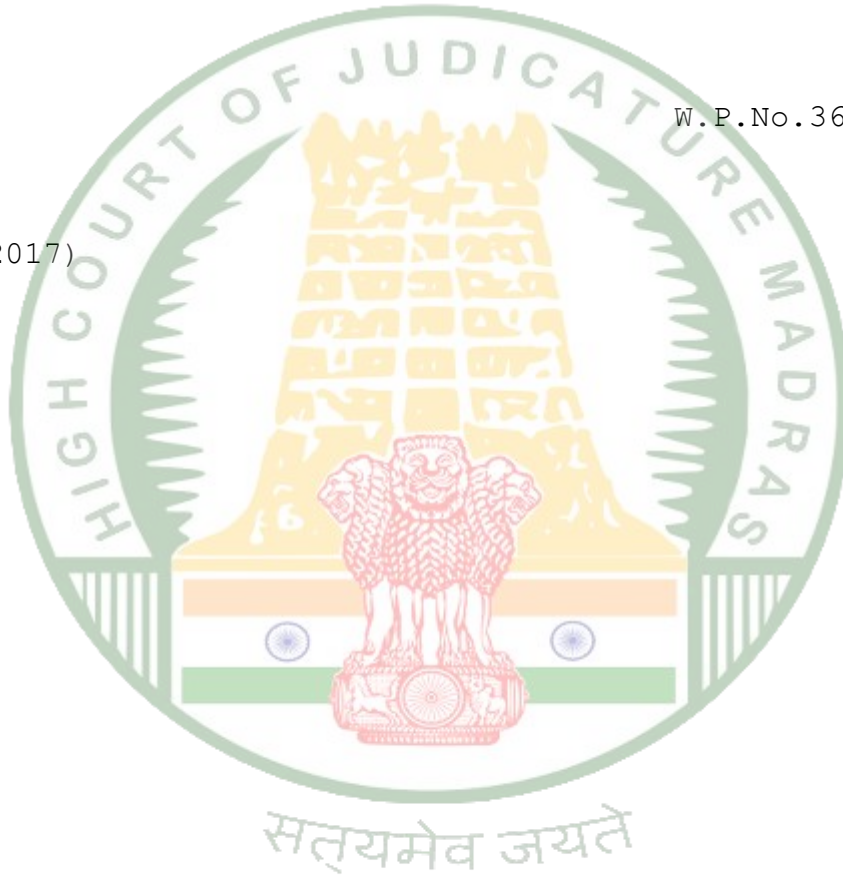
5. The Pay and Accounts Officer (East),
Egmore,
Chennai-3.

+1cc to the Government Pleader Sr. 65612

+1cc to Mr.N.Subramaniam, Advocate Sr. 65318

W.P.No.36506 of 2016

KJI (CO)
VR(05/10/2017)



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