



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2018

CORAM:

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
and
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

Review Application No.168 of 2018
in
W.A.No.1391 of 2014

1. State of Tamil Nadu
rep. by Secretary to Government
Higher Education Department
St. George Fort
Chennai 600 009.

2. The Director of Technical Education,
Guindy,
Chennai 600 025.

... Petitioners/Appellants

.. Vs ..

1. K.Vethavalli
2. A.Helan Mary Clara
3. R.Akila
4. M.Shyamala
5. K.Thangamalar
6. R.Prasanthi @ Punithavathi
7. N.Swarnalatha
8. J.Meena
9. S.Shanthi
10.P.S.Neelayathakshi

11.The Principal,
A.D.J. Dharmambal Polytechnic College,
Nagapattinam.

12.The Principal,
Vallivalam Desigar Polytechnic College,
Nagapattinam.

13. The Principal,
Seshasayee Institute of Technology,
Trichy 620 010.

... Respondents



WEB COPY

Prayer: Review application filed under Order 47 Rule 1 and 2 of CPC r/w. Section 114 of C.P.C. to review the order passed by this Court dated 05.04.2017 in W.A.No.1391 of 2014.

Prayer in WA.No.1391/2014:

Appeal filed under clause 15 of the Letters patent filed against the order dated 05.11.2013 in W.P.No.8265 of 2007.

Prayer in WP.8265/2007:

to call for and quash the proceedings in G.O.ms.no.534/Education (C-2) Dept. dt 19.11.2004 on the file of the Ist respondent in respect of paragraph 4(2) of the said order and the consequential order passed by the 2nd respondent in his proceedings No.182/C3/06 dt 25.2.2006 and consequently direct the respondents herein to pay the entire monetary benefits ever since their appointment with all other monetary and attendant benefits accrued to the petitioners herein.

For Petitioners	:	Mr.C.Munusamy, Special Government Pleader
For Respondents	:	Mr.L.Chandrakumar
		- - - - -

ORDER

(Order of the Court was made
by HULUVADI G.RAMESH, J.,)

This review application has been filed by the petitioners seeking to review the order passed by this Court in W.A.No.1391 of 2014 dated 05.04.2017.

2. Heard the learned counsel appearing for the parties for some time.

3. In the order of this Court dated 05.04.2017 passed in W.A.No.1391 of 2014, the issue as to the date of the benefit to be extended was in controversy. As against the impugned order passed by this Court in W.A.No.1391 of 2014, the State has preferred a Special Leave Petition and the Supreme Court has disposed of the said Special Leave Petition by holding that G.O. (Ms) No.534, Higher Education (C2) Department, dated 19.11.2004 has not been considered by this Court. As such, while entertaining the Special Leave Petition, the Supreme Court has



observed that the High Court ought to have considered the above aspect on merits and in accordance with law.

4. Learned counsel appearing for the respondents contended that whether G.O.(MS) No.1081, Education (J1) Department, dated 19.08.1989, is the date on which the respondents 1 to 10 sought to fix the regularisation and pay fixation including the scale for the teachers of Engineering Colleges as well as the pay scale for the Teachers in the polytechnics. The G.O.(MS) No.1081, Education (J1) Department, dated 19.08.1989 was in respect of the persons, who were already in service but whereas it appears that insofar as the case of the respondents 1 to 10, their dates of appointment were all subsequent to the Government Order.

5. We are of the view that at the time of issuance of G.O. (MS) No.1081, Education (J1) Department, dated 19.08.1989, the respondents 1 to 10 were not at all entered into the service and they have not re-designated.

6. In Paragraph No.7 of the order passed by the Division Bench of this Court on 05.04.2017, in W.A.No.1391 of 2014, it is observed thus:-

"7. The learned single Judge, after going through the materials placed before him and taking note of the relevant Government Orders and also similar orders passed by this Court, directed the appellants to re-designate the respondents 1 to 10 with effect from 19.8.1989 and to grant them all monetary benefits. But, the learned single Judge failed to take note of one important fact that the respondents 1 to 10 have been re-designated only subsequent to the issue of G.O.Ms.No.1081 dated 19.8.1989 and therefore, they are not entitled to the benefit from 19.8.1989, but they are entitled to the benefit only from the date of their re-designation, as per the dates stated in the tabular column in paragraph 5."

7. The fact remains that as per G.O.(Ms) No.534, Higher Education (C2) Department, dated 19.11.2004, there are 17 Government Polytechnic Colleges, 35 Aided Polytechnic Colleges and 5 Special Institutions functioning under the control of Director of Technical Education.

8. In the case on hand, the respondents 1 to 10 apart from more than 236 Instructors presently working in the Polytechnic Colleges and the Special Institutions be promoted as Lecturers from 19.08.1989 or from the date of their initial appointment or from the date of their acquiring the required qualification whichever is later by upgrading the Instructor posts as Lecturer



posts as in the annexure to the order and their pay in the promoted post be fixed only from the date of issuance of orders. The respondents 1 to 10 are appointed as Lecturers on various dates from 1990 upto 1996. But however, they were re-designated for acquiring the required qualification subsequently. G.O.(Ms) No.534, Higher Education (C2) Department, dated 19.11.2004, specifically referred that the pay in the promoted post be fixed not from the date of original appointment but from the date of promotion. Thus, as contended by the learned Special Government Pleader appearing for the review petitioners that the date fixed for the revised pay scale is not from the date of their original appointment but from the date of G.O.

9. Though the learned counsel for the respondents relies upon the Government Order in G.O.(MS) No.1081, Education (J1) Department, dated 19.08.1989, the said G.O. was only applicable to the persons, who were already in service and the respondents 1 to 10 were all appointed subsequently but they were promoted and re-designated subsequently. The G.O.(Ms) No.534, Higher Education (C2) Department, dated 19.11.2004 came to be issued not from the date of original appointment. Clause 4 (i) of the G.O.(Ms) No.534 reads thus:-

"4. (i) 236 Instructors presently working in the Polytechnic Colleges and the Special Institutions be promoted as Lecturers from 19.08.1989 or from the date of their initial appointment or from the date of their acquiring the required qualification whichever is later by upgrading the Instructor posts as Lecturer posts as in the annexure to this order."

10. It clearly indicates that the persons, who are all appointed, falls under sub clause (iii) of clause 1 and they are entitled for promotional pay only from the date of issuance of G.O. and hence, as indicated by the Hon'ble Supreme Court, as per G.O.(Ms) No.534, Higher Education (C2) Department, dated 19.11.2004, the respondents 1 to 10 are entitled to promotional pay only from the date of issuance of G.O. and not from the date of re-designation.

11. In this view of the matter, we are inclined to modify the earlier order fixing the pay and monetary benefits to the respondents 1 to 10 only from the date of their taking charge in the re-designated post of Associate Lecturer/Lecturer and not from the date of the issuance of G.O.Ms.No.1081 dated 19.08.1989.



12. Moreover, the argument of the learned counsel for the respondents that the earlier G.O.Ms.No.1081 dated 19.08.1989 is applicable whereas in the instant case, the respondents 1 to 10 herein are the only persons, who acquired the requisite qualification after the issuance of G.O. and accordingly, sub clause (i) of clause 4 is operative not from the date of re-designation as lecturers/promotion.

13. It is submitted that some of the candidates have already been paid the benefit from the date of re-designation/promotion. Therefore, it is for the Government to take steps to implement the order as per G.O.(Ms) No.534, Higher Education (C2) Department, dated 19.11.2004 i.e., from the date of G.O. and not from the date of re designation/promotion.

14. With the above observation, this review application is disposed of.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Jrl

TO:

1. The Secretary to Government
Higher Education Department
St. George Fort
Chennai 600 009.
2. The Director of Technical Education,
Guindy, Chennai 600 025.

+2cc to Mr.L.Chandrakumar, Advocate sr.o.39526

Review Application No.168 of 2018

sj(co)
nr 26/09/2018