



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.12757 of 2014

and

M.P. (MD) No.1 of 2014

WEB COPY

Dr.M.Mathusoodana Perumal

... Petitioner

vs.

1.The Secretary

The Ministry of Human Resource Development
Department of Higher Education, Shastri Bhavan
New Delhi-110 001

2.The Secretary

University Grant Commission (UGC)
Bahadur Shah Zafar Marg
New Delhi-110 002

3.The Secretary

Department of Pension & Pensioners' Welfare
3rd Floor, Lok Nayak Bhawan
Khan Market, New Delhi-110 003

4.The Principal Secretary

Department of Higher Education
The Secretariat, Chennai-600 009

5.The Director of Collegiate Education

College Road, Chennai-600 006

6.The Joint Director of Collegiate Education

Madurai Region, Madurai-627 002

7.The Accountant General of Tamilnadu

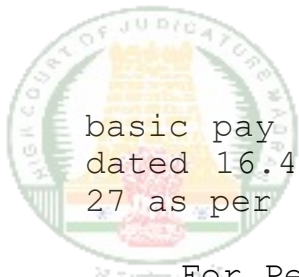
Office of the Accountant General
No.26, Anna Salai, Chennai

8.The Secretary

Vivekananda College
Agastheeswaram Taluk
Kanyakumari District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the respondents herein to re-fix and disburse the pension to the petitioner ~~w.e.f. 01.01.2006~~ in the cadre of Principal Grade-I in the revised pay scale corresponding to the 50% of the sum of Minimum of pay in the Pay Band and Grade pay thereon co-related to the pre-revised



basic pay of Rs.18200/- as per illustration 10 of the G.O.Ms.No.155 dated 16.4.1999 with effect from 01.01.1996 UGC Dispensation In S 27 as per the Fitment Table 5 issued by the 1st respondent.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.K.Asok Kumar Ram

Central Government Counsel of India for R1 & R3

No appearance for R2 & R8

Mr.S.Dhayalan

Government Advocate for R4 to R6

Mr.P.Gunasekaran for R7

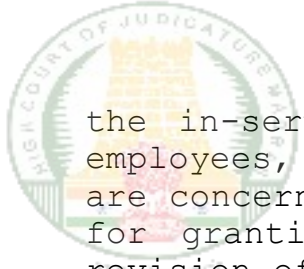
O R D E R

The relief sought for in the present writ petition is for a direction to the respondents to re-fix and disburse pension to the writ petitioner with effect from 01.01.2006 in the cadre of Principal Grade-I in the revised pay scale corresponding to 50% of the sum of minimum of pay in the pay band and grade pay thereon correlated to the pre-revised basic pay of Rs.18,200/- as per illustration-10 of G.O.Ms.No.155, Higher Education (H1) Department, dated 16.04.1999, with effect from 01.01.1996.

2. The writ petitioner was appointed as Tutor in the Department of English on 14.06.1966 in Vivekanandha College, Agastheeswaram, Kanyakumari District. He was promoted as Lecturer in Economics on 01.08.1968 and subsequently, to the post of Professor on 01.06.1976. The writ petitioner was promoted and appointed as the Principal of the said College on 20.11.1978 and his appointment as the Principal was approved by Madurai Kamaraj University with effect from 01.04.1979. The writ petitioner was retired from service, on attaining the age of superannuation in the post of Principal, on 30.04.1998. The writ petitioner is a pensioner as of now.

3. The pension was fixed based on the last pay drawn salary of the writ petitioner and in accordance with the Pay Rules in force. The claim of the writ petitioner is that he is entitled to get the revised scale of pay as applicable to the post of Principal Grade-I with effect from 01.01.2006. Thus, the writ petitioner states that the said revision is to be granted taking into account that he is entitled to get the salary attached to the post of Principal Grade-I.

4. This Court is of the considered opinion that the writ petitioner was admittedly allowed to retire from service on 30.04.1998. His pension was fixed based on the last drawn pay wages. All subsequent revisions of pension are to be done strictly in accordance with the Government Orders and Pay Rules in force. However, it is made clear that the revision of scale of pay granted to the in-service Professors or Principals cannot be directly to the retired Professors or Principals. The scale of pay as applicable to



the in-service employees cannot be implemented in respect of the employees, who were retired from service. As far as the pensioners are concerned, separate policy decisions are taken by the Government for granting the pensionary benefits. Thus, the scale of pay, revision of pension and all other benefits are granted separately in respect of the in-service employees and retired employees. This being the concept being followed and is the policy of the Government, the writ petitioner cannot compare with the revision of scale of pay granted to the in-service candidates.

5. The Honourable Supreme Court of India, in many number of decisions, has held that the revision of scale of pay granted to the in-service candidates cannot be claimed by the pensioners. Further, the Apex Court has held that the revision of pension is to be done strictly in accordance with the Pay Rules in force. This being the principles to be followed, the claim of the writ petitioner to grant retrospective pension with effect from the year 2006 cannot be considered by this Court. However, the pension now being disbursed to the writ petitioner shall be verified by the competent authorities and if any of the benefits conferred to the pensioners are not granted to the writ petitioner, then his case can be considered for revision of pension strictly in accordance with the Government Rules, which all are applicable to the pensioners alone. If any mistake is committed in fixing the pension or revision of pension, the said mistake or error also can be corrected. Thus, the respondents are directed to verify the correctness of the pension fixation done in the case of the writ petitioner and accordingly, revise the pension, if any mistake is found in the fixation of pension to the writ petitioner. If there is no mistake, then the existing pension, as applicable to the cadre in which the writ petitioner had worked, is to be granted and the said pension amount is to be disbursed.

6. With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Secretary,

The Ministry of Human Resource Development,
Department of Higher Education, Shastri Bhavan,
New Delhi-110 001.



2. The Secretary
University Grant Commission (UGC)
Bahadur Shah Zafar Marg
New Delhi-110 002

3. The Secretary,
Department of Pension & Pensioners' Welfare,
3rd Floor, Lok Nayak Bhawan,
Khan Market, New Delhi-110 003.

4. The Principal Secretary,
Department of Higher Education,
The Secretariat, Chennai-600 009.

5. The Director of Collegiate Education,
College Road, Chennai-600 006.

6. The Joint Director of Collegiate Education,
Madurai Region, Madurai-627 002.

7. The Accountant General of Tamilnadu
Office of the Accountant General
No.26, Anna Salai, Chennai

+1 CC to Mr.K.ASHOKUMAR RAM, Advocate (SR-81654[F] dated 14/08/2019)

+1 CC to SPL GP (SR-81951[F] dated 16/08/2019)

+1 CC to Mr.T.LAJAPATHI ROY, Advocate (SR-81857[F] dated 16/08/2019)

+1 CC to Mr.P.GUNASEKARAN, Advocate (SR-82073[F] dated 16/08/2019)

W.P. (MD) No.12757 of 2014
and
M.P. (MD) No.1 of 2014
14.08.2019

krk

MK (29.08.2019) 4P 12C