IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2980 of 2021

Dr.R.Sambath ...Petitioner

-vs-

1. The Secretary to Government of Tamilnadu,
   Higher Education Department,
   Fort St.George, Chennai-9.

2. The Commissioner of Technical Education,
   Directorate of Technical Education,
   Guindy, Chennai. ...Respondents

Prayer: Petition is filed under Article 226 of Constitution of India to issue a Writ of Mandamus, directing the respondents to revise the petitioner's pay scales in accordance with the Letter dated 18.05.2018 of the 2nd respondent by granting him benefits of upgradation under the Career Advancement Scheme along with consequential benefits including arrears from the respective dates.

For Petitioner : Mr.V.Vijay Shankar
For Respondents : Mr.S.Karthikeibalan
Govt. Advocate

O R D E R

The petitioner has filed this writ petition seeking a direction to the respondents to revise the petitioner's pay scales in accordance with the Letter dated 18.05.2018 of the 2nd respondent by granting him benefits of upgradation under the Career Advancement Scheme along with consequential benefits including arrears from the respective dates.

2. Mr.S.Karthikeibalan, learned Government Advocate takes notice for the Respondents. By consent on either side, the Writ Petition itself is taken up for final disposal at the admission stage itself.

3. According to the petitioner, he, who was appointed as Physical Training Instructor in the year December, 1994, is now working as regular Physical Director in the CIT College, Coimbatore. It is the case of the petitioner that as per

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G.O.Ms.No.62 Higher Education, Government of Tamil Nadu, Career Advancement Scheme (CAS) was directed to be implemented to the cadre of Librarians and Physical Instructor on par with the teaching faculty. The grievance of the petitioner is that though the said CAS was implemented to the similarly placed employees, including his predecessors, he was denied for such extension of the scheme and therefore, he made a representation to the respondents on 28.10.2018, followed by several representations dated 26.02.2019 and 11.09.2020. Since the said representations did not evoke any response, he is before this Court.

4. Learned Government Advocate contended that if a reasonable time is granted to the Respondents, the representations of the petitioner will be considered and suitable orders be passed on the same.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representations are already pending with the respondents, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 1st respondent herein to consider the representations of the petitioner dated 28.10.2018, followed other representations dated 26.02.2019 and 11.09.2020, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of two months from the date of receipt of a copy of this order, by taking note of the Letter dated 18.05.2018 of the 2nd respondent, if the same is applicable;

ii) In case the petitioner is unable to appear for personal hearing either physically or virtually, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the 1st respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

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iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representations dated 28.10.2018, 26.02.2019 and 11.09.2020 and this order, to the 1st respondent forthwith;

v) The 1st respondent is directed to communicate the decision taken on the representations, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To:

1. The Secretary to Government of Tamilnadu,
   Higher Education Department,
   Fort St.George, Chennai-9.

2. The Commissioner of Technical Education,
   Directorate of Technical Education,
   Guindy, Chennai.

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