

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2021

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.8629 of 2021
and
W.M.P.No.9179 of 2021

Kongunadu Arts and Science College (Autonomous),
Represented by its Secretary,
G.N.Mills Post, Coimbaore - 641 029. ... Petitioner

Vs.

- 1.Senior Accounts Officer,
Pension 24, O/o.The Principal Accountant General,
(Accounts & Entitlements),
361, Annasalai, Teynampet,
Chennai - 600 018.
- 2.State of Tamil Nadu,
Represented by Secretary to Government,
Higher Education Department,
Fort St.George,
Chennai - 600 009.
- 3.The Director of Collegiate Education,
College Road,
Chennai - 600 009.
- 4.The joint Director of Collegiate Education,
Coimbatore Region,
Coimbatore - 641 018.

5.Tmt.K.Thilagavathi ... Respondents

Prayer: Writ petition filed under Article 226 of Constitution of India praying to issue a writ of certiorarified mandamus calling for the records culminating in the Proceedings Rc.No.4808/A1/2019 dated 11.01.2021 sanctioning of revised provisional pension and revised provisional DCRG to the fifth respondent by the fourth respondent, and quash the same and direct the fourth respondent abide by instruction of the petitioner and the first respondent, respectively in respect of

re-fixing of pay of the fifth respondent & sanctioning revised provisional pension and revised provisional DCRG to the fifth respondent, respectively.

For Petitioner : Mr.K.Shakespeare

For Respondents : Ms.Sangamithirai for R1

O R D E R

This writ petition is directed against the refixation of pay of the 5th respondent for payment of revised provisional pension and revised provisional DCRG as ordered by the 4th respondent to the petitioner college. According to the petitioner college, without the sanction of the first respondent / Senior Accounts Officer, refixation of pay shall not be done.

2. The fact remains that there is a criminal case pending against the 5th respondent in respect of the offences punishable under Sections 65, 66 A, 66 C and 66 D of Information and Technology Act, and the same is pending in Crime No.6 of 2013 before Judicial Magistrate No.6, Coimbatore. During the pendency of the case, the 5th respondent has attained the age of superannuation on 30.06.2016 and she was allowed to retire from service. However, on the basis of letter issued by the first respondent, only provisional pension and provisional gratuity and other benefits were given.

3. Now the learned counsel for petitioner would contend that during the pendency of the criminal case, 4th respondent ought not to have refixed the scale of pay and provisional pension and other benefits. But the matter of fact is that the refixation of pay scale of the employees of the college was done by the Pay Commission. It applies to the post in which the 5th respondent was working and it was implemented in respect of similarly placed persons. When a person is permitted to retire from service, he or she will be entitled to refixation of pay and appropriate pension relief. The first respondent cannot stop that on the ground that the criminal case is pending against the individual as it is not a bar payment of terminal benefits. Even, assuming that the criminal case ends with conviction, that has nothing to do with the monetary benefits, which is to be given to the fifth respondent. It is also not the case of the petitioner that 5th respondent had caused loss to the college or money is to be recovered from her. Therefore, the challenge to refixation of pay and disbursement of pensionary benefits cannot be kept in abeyance on the ground of pending criminal case.

4. The writ petition merits no consideration and accordingly it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

Pns

To

1.Senior Accounts Officer,
Pension 24, O/o.The Principal Accountant General,
(Accounts & Entitlements),
361, Annasalai, Teynampet,
Chennai - 600 018.

2.Secretary to Government,
State of Tamil Nadu,
Higher Education Department,
Fort St.George,
Chennai - 600 009.

3.The Director of Collegiate Education,
College Road,
Chennai - 600 009.

4.The joint Director of Collegiate Education,
Coimbatore Region,
Coimbatore - 641 018.

+1cc to Mr.K.Shakespeare, Advocate, S.R.No.23348

W.P.No.8629 of 2021

EV(CO)
CB(14/06/2021)

सत्यमेव जयते

WEB COPY