



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.8639 of 2021

and

W.M.P(MD)Nos.6510 & 6511 of 2021

K.Sinthu Mythili

... Petitioner

vs.

1.The Registrar,
Anna University,
Chennai - 600 025.

2.The Dean,
Anna University, Regional Campus,
Anna University,, Keelakuyilkudi,
Madurai.

3.The State of Tamil Nadu,
Rep. by its Additional Chief Secretary to Government,
Higher Education Department,
Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the Memo No.RO-Mdu/DR [P]/-2016, dated 21.06.2016 and the consequent memo No.351/PR31/2016/SM/UCE, Madurai, dated 07.03.2017 on the file of the first respondent and quash the same insofar as the petitioner is concerned and further directing the respondents to restore the Grade Pay of the petitioner at Rs.2,800/- by re-designating the cadre as Assistant and pay the arrears from the date of reduction and to pay the arrears of the petitioner's salary.

For Petitioner : Mr.G.Prabhu Rajadurai

For RR 1 & 2 : Mr.M.Rajarajan

For R - 3 : Mr.K.S.Selva Ganesan
Government Advocate

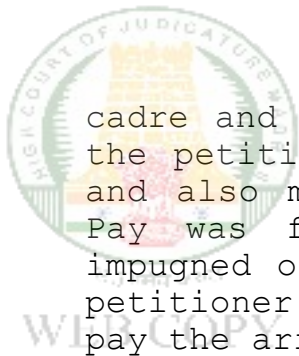


ORDER

The petitioner has filed the present Writ Petition, to quash the Memo, dated 21.06.2016 and the consequent memo, dated 07.03.2017, on the file of the first respondent and to direct the respondents to restore the Grade pay of the petitioner at Rs.2,800/- by re-designating the cadre as Assistant and pay the arrears from the date of reduction and to pay the arrears of the salary.

2. According to the petitioner, she was appointed as Accountant in the then Anna University of Technology, Madurai, by proceedings, dated 17.02.2011, on the scale of pay of Rs.5,200/- to Rs.20,200/- with Grade Pay of Rs.2,400/-. Subsequently, the then University proposed to revise the Grade pay of Rs.2,400/- to Rs.2,800/- on par with Accountants in other Government Departments. The above proposal was rectified by the Syndicate and Finance Committee. In pursuant to the same, the petitioner's Grade Pay was revised from Rs.2,400/- to Rs.2,800/-. In August, 2012, by proceedings, dated 09.11.2015, the then Anna University of Technology, Madurai, was merged with the respondents University. The petitioner was absorbed into the respondents University with effect from 01.08.2012. On such absorption, the petitioner was retained in the cadre of Accountant with the same scale of pay and Grade Pay. After completion of process of merger of Universities and the absorption of the employees, when the annual increment was sanctioned by the proceedings of the first respondent, dated 21.06.2016, the Grade pay of the petitioner was sanctioned as Rs.2,400/- on par with the cadre of Junior Assistant. The petitioner gave a representation to the respondents. The first respondent by the impugned memo informed the petitioner that in view of the Audit Objection, it was not feasible to grant Grade Pay of Rs.2,800/- to the petitioner. The petitioner gave representations, dated 29.06.2016, 16.11.2016, 30.08.2018, 03.02.2020 and 08.03.2021. So far, no action has been taken. Hence, the petitioner has come out with the present Writ Petition.

3. The learned counsel appearing for the petitioner submitted that after merger, the petitioner was protected and she was paid Rs.2,800/- as Grade Pay till May, 2016. The reduction of Grade Pay from Rs.2,800/- to Rs.2,400/- is illegal, arbitrary. Before reducing the Grade Pay, the petitioner was not heard by the respondents. By merging the Universities, the employees cannot put to any prejudice in respect of their rank and pay. The cadre of Accountant is equivalent to that of Assistant and the same is entered into Grade Pay of Rs.2,800/- in all the Departments of the Government of Tamil Nadu. The qualification fixed for the post of Assistant is similar to that of Accountant and superior to the post of Junior Assistant. The petitioner is entitled to the Grade Pay of Rs.2,800/- on par with Assistant. The reason given by the first respondent for reducing the Grade Pay of the petitioner is arbitrary. The Audit Department has no jurisdiction to decide the



cadre and pay of the petitioner. The learned counsel appearing for the petitioner referred to the proceedings of the first respondent and also minutes of the Syndicate, whereby the petitioner's Grade Pay was fixed at Rs.2,800/- and prayed for setting aside the impugned order and for a direction to restore the Grade Pay of the petitioner as Rs.2,800/- by redesignating the cadre as Assistant and pay the arrears from the date of reduction.

4.The respondents filed counter-affidavit.

5.The learned counsel appearing for the respondents 1 and 2 submitted that the petitioner's representation to change her Grade Pay from Rs.2,400/- to Rs.2,800/- was considered by the University. In view of the Audit Objection, the petitioner's request was not feasible for consideration. In the respondents University, there is no such post of Accountant. In view of the Audit Objection, the matter will be placed before the Syndicate whether the post of Accountant is equivalent to the post of Assistant and the respondents will pay the Grade Pay.

6.Heard the learned counsel appearing on either side and perused the entire materials available on record.

7.From the materials available on record, it is seen that the petitioner was appointed as Accountant in the then Anna University of Technology, Madurai. Apart from her scale of pay, a Grade Pay of Rs.2,400/- was granted. The persons appointed as Assistant in the selection process was also paid Grade Pay of Rs.2,400/-. All the Accountants and Assistants in Government Department are paid with Grade Pay of Rs.2,800/-. In order to rectify the said anomaly, the Syndicate of the then Anna University of Technology, Madurai, passed the resolution, fixing Grade Pay of Accountant at Rs.2,800/- to the petitioner. Further, the then Anna University of Technology, Madurai, approved the payment of Grade Pay of Rs.2,800/- to the petitioner. Even after merging of the then Anna University of Technology, Madurai, with the respondents 1 and 2, the petitioner was paid Grade Pay of Rs.2,800/- till May 2016. Thereafter only, the Grade Pay of the petitioner was reduced to Rs.2,400/-. In reply to the representation made by the petitioner, the first respondent by impugned memo, informed that due to Audit Objection, payment of Grade Pay of Rs.2,800/- is not feasible for consideration. The first respondent has not given any notice to the petitioner for reducing the Grade Pay to Rs.2,400/-. As rightly pointed out by the learned counsel appearing for the petitioner, the Syndicate of the then Anna University of Technology, Madurai, approved the Grade Pay of Rs.2,800/- to be paid to the petitioner. In view of the above fact, the reason given in the impugned memo, based on the Audit Objection, the petitioner's Grade Pay was reduced, is invalid and illegal. The reason given for Audit Objection was also not communicated to the petitioner. The petitioner was not given opportunity to submit her



8.For the above reasons, the impugned order is set aside and the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Registrar,
Anna University,
Chennai - 600 025.

2.The Dean,
Anna University, Regional Campus,
Anna University,, Keelakuyilkudi,
Madurai.

3.The Additional Chief Secretary to Government,
Higher Education Department,
Chennai.

+1 CC to M/s.M.RAJARAJAN, Advocate (SR-22253[F] dated 13/07/2021)

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-22348[F] dated 13/07/2021)

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RK (03.08.2021) 4P 6C