



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.08.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.13623 of 2021

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C. Jessintha

... Petitioner

Vs.

1.The State of Tamilnadu,
Department of Higher Education,
Fort St. George,
Chennai - 600 025.

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

3. Arulmigu Palaniyandavar Polytechnic College,
Represented by its Secretary cum Correspondent,
Palani- 624601.

4. The Principal,
Arulmigu Palaniyandavar Polytechnic College,
Palani - 624601.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 26.02.2021 passed by the 4th respondent in Se.Mu.Ka.No.005/A4/2021, which was sent to the petitioner by RPAD on 15.04.2021 and which was served to the petitioner on 17.04.2021, and to quash the same and consequently direct the respondents to revise the petitioner's pay with effect from 01.01.2016 as per G.O.Ms.No.20, Higher Education (C2) Department based on the Band Pay and Grade Pay which the petitioner received on 31.12.2015 and as per the order dated 31.05.2016 passed by the 3rd and 4th respondents, with arrears and all other consequential benefits and to revise his terminal benefits based on such revised pay, with arrears and other consequential benefits, together with interest at the rate of 12 % per annum.

For Petitioner : Mr. V. Ajoy Khose

For Respondents : Mr.S.Shanmugavel
Standing Counsel for R1and R2
Mr. V.R. Shanmuganathan
For R3 and R4



O R D E R

With the consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

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2. According to the learned counsel for the petitioner, the fourth respondent has passed an order on 26.02.2021, impugned in this writ petition and the same was received by him on 17.04.2021. Thereafter, the petitioner sent a representation to the respondents on 30.04.2021, However, no orders were passed. According to the petitioner, the aforesaid impugned order was passed by the fourth respondent to initiate action against the petitioner to recover the alleged excess amount and to reduce the scale of pay by following the procedure contemplated under the Rules. Further the petitioner also submitted that there is no opportunity granted to him. Therefore, it is a clear case of violation of principles of natural justice and the said order is liable to be quashed.

3. The learned Standing Counsel for the respondents would submit that the said order was passed in accordance with the instructions issued by the authority, wherein they have stated that the petitioner is not entitled to the scale of pay fixed by the department. Even though justified for the decision taken by the respondents, the respondents have not disputed the above fact that they have not provided an opportunity to the petitioner and passed the final orders.

4. It is seen from the impugned order that no opportunity has been granted to the petitioner before passing the impugned order. Therefore this court has no hesitation to come to the conclusion that the respondents have violated the principles of natural justice. On the aforesaid short ground, the impugned order is liable to be quashed.

5. In view of the above facts and circumstances of the case, this court is inclined to pass orders as follows:

i) the impugned order is quashed ;

ii) the respondents are directed to provide an opportunity to the petitioner to submit his explanation and proceed to pass appropriate order on its own merits and in accordance with law;

iii) the aforesaid exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

iv) the petitioner shall also co-operate with the respondents for passing the orders .



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6. With the above observations, the Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar (T&P)

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/ /2021

Sub Assistant Registrar(CS)

mnr

To

1.The State of Tamilnadu,
Department of Higher Education,
Fort St. George,
Chennai - 600 025.

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

+1 CC to M/s.GP (SR-25609[F] dated 09/08/2021)

+1 CC to M/s.V.AJOY KHOSE, Advocate (SR-25763[F] dated 10/08/2021)

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