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W.P.No.13614 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13614 of 2019

Dr.E.Murugesan

... Petitioner

-Vs-

1. The Secretary to the Government,
Law Department,
Government of Tamil Nadu,
The Secretariat,
Fort St. George, Chennai 9.

2. The Director of Legal Studies,
O/o.The Directorate of Legal Studies,
Kellys, Chennai 10.

3. The Principal,
Government Law College,
Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Mandamus, to direct the 1st respondent to fix the salary in the light of fitment table-II of G.O. (Ms) No.350 of Higher Education (H1) Department, dated 9.9.2009 by using multiplier 1.86 for proper fixation with equaling to petitioner's pre-revised scale of pay i.e. $10,000 \times 1.86 = 18600$ and also other consequential benefits of revision in consonance with the G.O. (Ms) No.145 of Higher Education (H1) Department, dated 6.7.2018 as per law prevailing and to provide



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monetary benefits since the date of appointment.

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For Petitioner : Mr.R.Rajarajan

For Respondents : Mr.S.Rajesh
Government Advocate

ORDER

The relief sought in the present writ petition is to direct the respondents to fix the salary in the light of fitment table-II of G.O. (Ms) No.350 of Higher Education (H1) Department, dated 9.9.2009, by using multiplier 1.86 for proper fixation with equaling to petitioner's pre-revised scale of pay i.e. $10,000 \times 1.86 = 18600$ and also other consequential benefits of revision in consonance with the G.O. (Ms) No.145 of Higher Education (H1) Department, dated 6.7.2018, as per law prevailing and to provide monetary benefits since the date of appointment.

2. The petitioner states that he was recruited as a Lecturer on 13.07.2012. The petitioner was transferred to Government Law College, Madurai on request. Again he was transferred to Government Law



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College, Ramanathapuram, in the year 2017, and was working as such.

The petitioner states that the Higher Educational Department had issued G.O.Ms.No.350, dated 09.09.2009, revising the scale of pay and allowances for the teachers and equivalent cadres in University and Government/Government Aided College, governed by the University Grants Commission. The said Government Order stipulates that there shall only be three designations in respect of the teachers in the Universities and Colleges vis. Assistant Professors, Associates Professors and Professors. The Lecturers, Lecturers (senior scale), Assistant Professors were all brought under one umbrella of designation called as Assistant Professors with varying Grade Pay system of Rs.6,000/-, Rs.7,000/- and Rs.8,000/-. The Government Order also provides different stages of academic grade pay or having multiple opportunities for having an upward movement during the career.

3. The claim of the petitioner is that he is entitled to the grade pay of Rs.7,000/- in the designated post of an Assistant professor. However, the said grade pay was not granted to him and in this regard, the petitioner submitted a representation to the authorities, which was not considered and consequently he had chosen to file the present writ petition.



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4. The learned Government Advocate appearing on behalf of the respondents contended that the petitioner is not eligible for the revised scale of pay as per G.O.Ms.No.350. His pay was fixed as per the pay fixation formula applicable to the cadre of the writ petitioner.

5. The petitioner herein was selected through the Teachers Recruitment Board by direct recruitment for the post of Lecturer (Senior Scale) (Now re-designated as Assistant Professor) in the Government Law Colleges and was appointed as Lecturer (Senior Scale) in G.O.Ms.No.422, Law (LS) Department, dated 09.07.2012 in the Pay Band of Rs.15600-39100+AGP Rs.7000/- in the Government Law College, Thiruchirappalli. He joined the said post on 13.07.2012. Subsequently, he was transferred to the Government Law Colleges at Madurai and Ramanathapuram. He filed this Writ Petition while working as an Assistant Professor in the Government Law College, Ramanathapuram. At present, he is working in the Government Law College, Madurai.



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6. G.O.Ms.No.350, Higher Education (H1) Department, dated 09.09.2009. wherein it is clearly stated that the pay fixation formula as applicable to the State Government employees shall be adopted for teachers and equivalent cadres working in the Government Colleges governed by the University Grants Commission and the above mentioned amendment issued in G.O.Ms.No.258, Finance (Pay Cell) Department, dated 23.06.2009, and in view of the fact that since the petitioner herein who was selected as Lecturer (Senior Scale) and appointed through the Teachers Recruitment Board, did not join service prior to 01.06.2009 but had joined only on 13.07.2012, his pay was fixed as Rs.15600+AGP Rs.7000/- in the revised pay band of Rs.15600-39100 + AGP Rs.7000/- by the Principal of the Government Law College, Thiruchirappalli.

7. Fitment Table No.2 in Appendix-III to G.O.Ms.No.350, Higher Education (H1) Department, dated 09.09.2009, relates to the fixation of Pay of incumbent Lecturers (Senior Scale) who were in service on 01.01.2006, since 24% of the Dearness Allowance drawn by the Lecturers (Senior Scale), on 01.01.2006, in the pre-revised scale of Rs.10,000 – 325 – 15200/- has been taken into account for fixation in the revised pay band of Rs.15600-39100+AGP Rs.7000/-. In the instant case,



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the petitioner herein had joined as Lecturer (Senior Scale) only on 13.07.2012 and hence, Fitment Table No.2 in Appendix-III to G.O.Ms.No.350, Higher Education (H1) Department, dated 09.09.2009 shall not apply to him. Instead, only the amendment issued in G.O.Ms.No.258, Finance (Pay Cell) Department, dated 23.06.2019, will apply to the petitioner herein for fixation of his pay in the revised pay band.

8. The method of multiplying the existing basic pay in the pre-revised scale as on 01.01.2006 by a factor of 1.86 and rounding of the resultant figure to the next multiple of 10 shall apply only to the incumbent Lecturers (Senior Scale), who were in service as on 01.01.2006, and fresh recruits appointed on or after 01.01.2006 and before 01.06.2009, and does not apply to the petitioner herein who joined as Lecturer (Senior Scale) only on 13.07.2012.

9. In view of the facts, the petitioner's case is not falling between the ambit of the Government Order issued in G.O.Ms.No.350, since the petitioner joined as a Lecturer (senior scale) only on 13.07.2012. This Court is of the considered opinion that Judicial Review in the matter of



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fixation of pay is limited. Only if there is any grave violation of Rules or Government Orders established, then alone the Court can interfere and not otherwise. In the present case, the respondents have stated that the Government Order issued in G.O.Ms.No.350 is not applicable to the writ petitioner since he was appointed on 13.07.2012, therefore, the question of considering the case for revision of pay for the petitioner would not arise at all.

10. Accordingly, writ petition stands **dismissed**. However, there shall be no order as to costs.

01.12.2022

Index : Yes
Speaking order
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To

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O/o.The Directorate of Legal Studies,
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S.M.SUBRAMANIAM.J.,

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