



W.P.(MD) No.7267 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.7267 of 2020 and
WMP Nos.6711 & 6713 of 2020

T.N.Geetha

... Petitioner

-VS-

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

2.The Secretary
Padmabhushan Sri N.Ramasamy Ayyar
Memorial Polytechnic for Girls
Trichy District

3.The Principal
Padmabhushan Sri N.Ramasamy Ayyar
Memorial Polytechnic for Girls
Trichy District

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writs of Certiorari to call for the records relating to the impugned re-fixation order passed by the 1st respondent in his proceedings in Seyalmurai Anai No.35996/si4/2018-1 dated 23.05.2020 and



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consequential impugned recovery order passed by the 2nd respondent in his proceedings Seyalmurai Anai No.PNRM/ESTT/2020 dated 04.06.2020 and quash the same as illegal.

For Petitioner : Mr.N.Mohan
For Respondents : Mr.T.Amjad Khan for R1
Government Advocate
Mr.Raguvaran Gopalan for R2&R3

ORDER

Challenging the impugned order of the 1st respondent dated 23.05.2020 and the consequential impugned order of recovery of the 2nd respondent dated 04.06.2020, the petitioner is before this Court with this writ petition.

2. The case of the petitioner is that the petitioner was appointed in the year 1983 as Physical Director in the second respondent college and retired as Physical Director Selection grade from the 2nd respondent Polytechnic college, which is affiliated to AICTE. The further case of the petitioner is that AICTE introduced career advancement scheme (CAS), which was implemented by the State of Tamil Nadu vide G.O.Ms.No.111



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dated 25.10.2010. The petitioner was eligible for the revised Academic grade pay of Rs.8,000/- on 01.01.2006, Rs.9,000/- for 01.01.2009 with pay band of Rs.37400-67000 as per the said G.O. However, during the year 2019, the Government formed a screening committee and before the said Committee, the petitioner appeared and produced all the relevant documents. Pursuant to the said committee report, the pay of the petitioner was refixed as 31.05.2012 instead of 01.01.2009 and it was ordered to repay the excess amount paid. However, no notice was served on the petitioner before the said refixation order and hence, the petitioner is before this Court with this writ petition.

3. The learned counsel for the petitioner would submit that the present recovery order is passed in the year 2020 after the retirement of the petitioner without issuing any show cause notice, which is unsustainable and also clear violation of principles of natural justice and prays for a direction.



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4. The learned Government Advocate appearing for the first respondent, by relying upon the counter affidavit, would submit that the petitioner was initially appointed on 01.01.1983 as Physical Director in the second respondent College and promoted as Physical Director (Senior scale) and senior grade and selection were also granted. As per AICTE notification dated 05.03.2010, as per G.O.Ms.No.111, pay scales have been revised. As per the said G.O., the faculties may opt for revision of pay either on 01.01.2006 or after 01.01.2006 and the petitioner opted for 01.01.2006. Accordingly, her pay has been fixed. The Principal is not competent to sanction AGP upward movements. Only the second respondent is competent to sanction AGP upward movements. However, it is submitted that the third respondent has erroneously granted AGP upward progression contravening the above said G.O. It is further submitted that the petitioner has not undergone six weeks training within the stipulated period and hence, the petitioner is not eligible to the AGP of Rs.9000/- in the pay bank of Rs. 37400-67000/- on 11.03.2008. As per G.O.Ms.No.58 dated 21.03.2018, the course requirements for CAS is mandatory from 01.01.2006 and since the petitioner has not undergone such training, the impugned recovery order has



been passed and hence, no interference is warranted to the impugned order.

5. Heard the learned counsel for the petitioner and the learned Government Advocate for the first respondent.

6. It is seen that the petitioner entered into the service and she got retired in the year 2017. On perusal of the impugned order, it reveals that before issuing the impugned order and before recovery being effected. no show cause notice was issued to the petitioner, which shows violation of principles of natural justice. Accordingly, on the sole ground, the impugned order is set aside. However, liberty is granted to the first respondent to issue a show cause notice and if any show cause notice is issued to the petitioner, the petitioner is directed to give explanation and after receipt of such explanation and after conducting enquiry, the respondent is directed to pass appropriate orders, if it is so advised.



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7. The writ petition is disposed of accordingly. No costs.

Consequently connected Miscellaneous Petitions are closed.

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Index : Yes/No

Internet : Yes

RR

To

1.The Commissioner

Directorate of Technical Education,
Guindy, Chennai.



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M.DHANDAPANI, J.

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