



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) Nos.12415, 12419, 12421 to 12423, 12427, 12429, 12430,
12432, 12434 to 12436 of 2020

W.M.P (MD) .Nos.1847 of 2022, 10635, 10639, 10640, 10624, 10625,
10641, 10627 to 10630, 10636, 10634 of 2020

M.Asokan ... Petitioner in W.P(MD).No.12415 of 2020
V.Krishnamurthy, ... Petitioner in WP(MD). 12419/ 2020
V. Chandrasekaran ... Petitioner in WP(MD). 12421/ 2020
K.Jeyalakshmi ... Petitioner in WP(MD). 12422/ 2020
S.K. Meenakshi ... Petitioner in WP(MD). 12423/ 2020
K.V.Suthanthira Devi ... Petitioner in WP(MD). 12427/ 2020
L.Banumathi ... Petitioner in WP(MD). 12429/ 2020
T.T.Karthikeyan, ... Petitioner in WP(MD). 12430/ 2020
Dr.T.Elango. .. Petitioner in WP(MD). 12432/ 2020
R.Rajagopala Subramanian... Petitioner in WP(MD). 12434/ 2020
K.Karunakaran ... Petitioner in WP(MD). 12435/ 2020
J. Jayanthi ... Petitioner in WP(MD). 12436/ 2020

Vs.

- 1.The State of Tamil Nadu,
Rep.by its Secretary,
Department of Higher Education,
Fort St.George, Chennai-600 006.
- 2.All India Council for Technical Education,
Rep.by its Member Secretary,
I.G.Sports Complex,
I.P.Estate, New Delhi-110 002.
- 3.The Commissioner,
The Directorate of Technical Education,
Guindy, Chennai-600 025.
- 4.The Principal cum Secretary,
Arulmigu Palani Andavar Polytechnic College,
Palani-624 601, Dindigul District. ... Respondents in all WPs

Common Prayer :

Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus directing the respondents to re-fix the petitioners scale



of pay in the IV Pay Band of Rs.37400 -9000 (AGP) -67000 with effect from 01.01.2006, with consequential monetary benefits by reckoning his/her entire period of service from 12.01,1986, 22.10.1985, 02.10.1983, 17.07.1985, 09.09.1986, 08.01.1983, 19.09.1986, 01.11.1985, 10.02.1986, 08.09.1986, 12.01.1986, and 31.08.1987 respectively as Lecturers in terms of G.O.(Ms) No. 111 (Higher Education -C2) Department dated 25.05.2010.

In all WPs

For Petitioner	:	Mr.P.Muthuvel for M/s.Isaac Chambers
For Respondents	:	Mr.G.V.Vairam Santhosh Additional Government Pleader for RR1 and 3 Mr.N.Dilip Kumar for R2 Mr.V.R.Shanmuganathan for R4

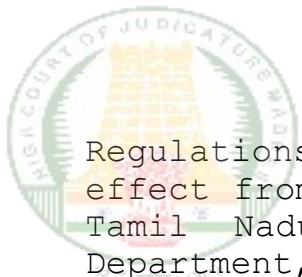
O R D E R

All these writ petitions have been filed to direct the respondents to re-fix the petitioners scale of pay in the IV Pay Band of Rs.37400-9000(AGP)-67000 with effect from 01.01.2006 with consequential monetary benefits by reckoning their entire period of service as Lecturers in terms of G.O.(Ms).No.111 (Higher Education-C2) Department, dated 25.05.2010.

2. All these writ petitioners were serving as Lecturers in Government Polytechnic Colleges/Government Aided Private Polytechnic Colleges, except one writ petition (i.e.,) W.P(MD).No.12434 of 2020, in which, the petitioner is the husband of one S.Karthiyayini, who was working as Lecturer and he has filed the said writ petition.

3. The respective learned counsels appearing for the petitioners mainly contended that with effect from 01.01.2006, the date on which the Pay Commission recommendations were implemented, the Government Order issued in G.O.(Ms) No.111, Higher Education (C2) Department, dated 25.05.2010, was implemented. Accordingly, the pay was revised with effect from 01.01.2006 to all the categories of teaching staff working in the Government Polytechnic Colleges and Government Aided Private Polytechnic Colleges. As per the said Government Order, Career Advancement Scheme has been provided and based on the qualifications and years of service rendered, Academic Grade Pay was fixed. The respective learned counsels appearing for the petitioners are of the opinion that there is no infirmity in respect of pay fixation made to all the petitioners in accordance with G.O.(Ms) No.111, Higher Education (C2) Department dated 25.05.2010.

4. Subsequently, All India Council for Technical Education (Career Advancement Schemes for Teachers and other Academic Staff in Technical Institutions) (Diploma) Regulations, 2012 (in short "2012



Regulations") were issued. The said 2012 Regulations came into effect from the year 2012 and were implemented by the Government of Tamil Nadu by issuing G.O.(Ms) No.58, Higher Education (C2) Department, dated 21.03.2018. The contentions of the petitioners are that the Career Advancement Scheme with reference to G.O.(Ms) No.111, dated 25.05.2010, was fixed in accordance with the Government Order and they were receiving the pay accordingly. As far as 2012 Regulations are concerned, as per the eligibility, the pay was revised to the petitioners with reference to the qualifications stipulated in 2012 Regulations and therefore, the recovery is untenable and liable to be set aside.

5. While countering the arguments advanced on behalf of the petitioners, the learned Additional Government Pleader pointed out that errors were crept-in at various stages and the respective Polytechnic Management / Principals are the Pay Drawing Officers, who in turn without getting approval from the Commissioner of Technical Education, fixed pay at their whims and fancies by erroneously interpreting the Government Order as well as 2012 Regulations issued by AICTE.

6. The learned Additional Government Pleader drew the attention of this Court with reference to the Circular issued by the Commissioner of Technical Education to all the Principals of the Government Aided Private Polytechnic Colleges vide Letter dated 20.02.2012. In the said Circular, the Commissioner of Technical Education has specifically referred G.O.(Ms) No.111, Higher Education (C2) Department, dated 25.05.2010. With reference to G.O. (Ms) No.111, dated 25.05.2010, the said Circular was issued stating that while granting upgradation and fixation of pay, proposals along with all the particulars must be submitted to the Commissioner of Technical Education enabling him to grant approval for the purpose of revision of pay. In respect of Government Polytechnic Colleges are concerned, the Commissioner of Technical Education issued a separate Circular, dated 05.03.2012. Thus, with reference to fixation of pay and Academic Grade Pay and grant of Career Advancement Scheme, proposals are to be submitted in a prescribed format along with all details to the Commissioner of Technical Education and the said proposals are to be approved by the Commissioner of Technical Education, then alone the College concerned could submit a bill for drawal of pay.

7. The learned Additional Government Pleader reiterated that the said procedure had not been followed by the Pay Drawing Officers of the respective Polytechnic Colleges. Contrarily, they have adopted their own interpretation and granted pay fixation and Career Advancement Scheme in excess, which resulted in huge financial loss to the State Exchequer and this was traced out by the Authorities Competent and thereafter, actions were taken to set right the issue and recover the excess amount paid to the teaching



staff of the respective Polytechnic Colleges.

8. The learned Additional Government Pleader further pointed out that the Government Order in G.O.(Ms) No.58, Higher Education (C2) Department, dated 21.03.2018, was issued in implementation of 2012 Regulations to the Government and Government Aided Private Polytechnic Colleges. Pursuant to the said Government Order, Screening-cum-Evaluation Committee and Selection Committee were constituted. The constitution of the Committee is also done in the Government Order. Therefore, the Committee was constituted to rectify the anomalies, errors crept-in in respect of erroneous fixation of pay and grant of arrears under the Career Advancement Scheme to the teaching staff. The endeavour of the Committee is to ensure that the Government Orders issued in consonance with AICTE Regulations are properly implemented by the respective Polytechnic Colleges across the State of Tamil Nadu. In this context, the Commissioner of Technical Education has also issued Circulars to ensure that proposals must be submitted to him for the purpose of grant of approval. However, these Circulars issued by the Commissioner of Technical Education were not followed by the Polytechnic Colleges before effecting refixation of pay and grant of arrears to its teaching staff.

9. The learned Additional Government Pleader relied on the constitution of the Screening-cum-Evaluation Committee, wherein the Commissioner of Technical Education / Nominee of Commissioner of Technical Education is shown as the Chairperson and the Principal of the College concerned, Head of the concerned Department from the Polytechnic College and two subject experts not connected with the College and in case of Aided Polytechnic Colleges notified / declared as Minority Educational Institutions, one subject expert not connected with the State to be nominated by the Chairperson of the Governing Body of the College out of the panel of five names, preferably from minority communities, recommended by the State Government from the list of subject experts approved by the relevant statutory body of the College are also made as members. An academician representing SC / ST / OBC / Minority / Women / Differently-abled categories are also included. Therefore, the Committee was constituted in a fair and reasonable manner so as to avoid any bias in the matter of considering the issues and taking decision.

10. Relying on the constitution of the Screening-cum-Evaluation Committee, the learned Additional Government Pleader submitted that the Committee has gone into the issues regarding Career Advancement Scheme, scrutinized the same and found that there were large scale irregularities in the matter of pay fixation and payment of arrears made to the teaching staff.

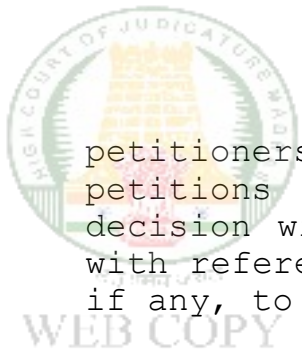


11. The learned Additional Government Pleader further contended that the implementation of G.O.(Ms) No.111, dated 25.05.2010, is not in dispute. As per the said Government Order, the Career Advancement Scheme was given as prescribed in the said Government Order. However, for further Career Advancement Scheme under 2012 Regulations, G.O.(Ms) No.58, dated 21.03.2018, is to be followed and prior approval must be obtained from the Commissioner. The said position is clarified in the G.O.(Ms) No.58, dated 21.03.2018 itself. The said Government Order further states that in order to achieve the norms of Career Advancement Scheme, after 08.11.2012, the qualifications contemplated under 2012 Regulations must be followed. Therefore, the Career Advancement Scheme implemented as per G.O.(Ms) No.111, dated 25.05.2010 is not in dispute and further revision based on 2012 Regulations with retrospective effect was found to be irregular and not in consonance with the Government Order in G.O.(Ms) No.58, dated 21.03.2018.

12. The learned Additional Government Pleader further submits that for the faculty achieving the norms of Career Advancement Scheme after 08.11.2012, the academic grade progressions shall be fixed notionally on the date of attaining eligibility and the financial benefit from the date of issue of G.O.(Ms) No.58 i.e. from 21.03.2018. However, in the present case, the Career Advancement Scheme was implemented with retrospective effect and the monetary benefit was also granted with retrospective effect, which is in total violation of the Government Order and caused huge loss to the State Exchequer and therefore, the respondents are bound to initiate action for recovery of payment already made.

13. In respect of similarly placed retired Lecturers/Professors/Head of the Department, fixation and recovery of excess amount arouse and a batch of writ petitions was filed before this Court. This Court has elaborately considered the issues and delivered a judgment on 10.03.2022. Some of the writ petitioners in these batch of writ petitions were the petitioners in those batch of writ petitions also. However, the issues in those writ petitions are fixation of pay in accordance with G.O.Ms.No.111, Higher Education (C2) Department dated 25.05.2010. In view of the fact that this Court has elaborately considered the scope of G.O.Ms.No.111, Higher Education (C2) Department dated 25.05.2010 and now it is brought to the notice of this Court that the petitioners have appeared before the Screening Committee during March 2022, their request will be considered as per the recommendation of the Screening Committee, subject to fulfilment of requirement as per All India Council for Technical Education Regulations and the Government orders.

14. The learned Additional Government Pleader further contended that with reference to claim of the petitioners, the Commission is in the process of considering the claim of these



petitioners including the petitioners in those batch of writ petitions filed in W.P(MD).No.1661 of 2019 etc.,. An appropriate decision will be taken regarding the fixation of pay as applicable with reference to the Government orders and also the other benefits, if any, to be granted.

15. In order dated 10.03.2022, this Court has passed the following order:-

42. This being the factum,

- The orders impugned in the Batch-I writ petitions are directed to be kept in abeyance till such time the Committee takes a decision after affording due opportunity to all the petitioners in Batch-I writ petitions and orders are passed by the Authority competent.
- The petitioners in Batch-I writ petitions are at liberty to send their service particulars, objections and documents establishing their eligibility through online to the Commissioner of Technical Education, who is the Chairman of the Committee. Even if the petitioners have chosen to appear before the Screening Committee in person, they are at liberty to appear before the Committee for representing their case from 21.03.2022 to 23.03.2022 between 11.00 a.m. and 05.00 p.m.
- Thereafter, the Authority Competent shall consider the same in consonance with the Scheme and pass orders on merits and in accordance with law, as expeditiously as possible.

43. Insofar as the petitioners come under Batch-II writ petitions are concerned, they have availed the opportunity and appeared before the Screening Committee and presented their case. Therefore, providing further opportunity to them would not arise at all as the principles of natural justice have been complied with. The only endeavour is to ensure that the correctness or otherwise of the impugned orders now questioned by the petitioners is to be once again scrutinized by the Appellate Authority. As far as the Original Authority is concerned, the petitioners have participated before the Screening Committee representing their case and the Original Authority has taken a decision and issued the impugned orders of recovery and this Court do not find any infirmity. In such view of the matter,

- the petitioners come under Batch-II writ petitions are at liberty to prefer appeal along with the documents and Government Orders in force under the General Rules before the Secretary to Government,



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Higher Education Department / Appellate Authority.

➤ In the event of submitting any such appeal, the Appellate Authority shall consider the same on merits and in accordance with law and pass appropriate orders as expeditiously as possible.

➤ The petitioners are at liberty to file interim applications along with the appeals before the Appellate Authority for grant of stay of the recovery orders.

44. W.P.(MD) No.1661 of 2019 is concerned, Mr.Rajpal Singh, learned counsel appearing for the petitioner made a submission that he is confining the relief sought for in the writ petition as the learned Additional Advocate General made a submission that the petitioners will be permitted to appear before the Screening Committee to place all the documents and to establish their case. Therefore, the petitioner in W.P.(MD) No.1661 of 2019 is directed to comply with the directions issued in respect of Batch-I writ petitions.

45. As far as W.P.(MD) No.8971 of 2020 is concerned, The Authority Competent is directed to verify as to whether the petitioner in W.P.(MD) No.8971 of 2020 has appeared before the Screening Committee. In case he had not appeared before the Screening Committee, he should be permitted to appear before the Screening Committee as per the directions granted in respect of Batch-I writ petition. In case, he appeared before the Screening Committee, then he should be permitted to prefer appeal as per the directions granted in Batch-II writ petitions..

46. The Secretary to Government and the Commissioner of Technical Education are directed to ensure that all the pay fixations and other monetary benefits granted under various Schemes are implemented scrupulously, only after getting prior approval from the Commissionerate of Technical Education and the Government, as the case may be. In the event of any implementation of monetary benefits without getting prior approval from the Heads of the Departments or Government, then, the Management / Authority concerned of the Government Aided Private Polytechnic Colleges must be held responsible and accountable and suitable actions are to be initiated against the Educational Agency / Management and in case of Government Polytechnic Colleges, disciplinary action must be taken against the Principal / Authorities of the Colleges and the monetary loss to the Government must be



recovered from all concerned and this direction shall be communicated by the Commissioner of Technical Education to all the Polytechnic Colleges, either Government or Government Aided throughout the State of Tamil Nadu.

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16. As far as the present writ petitioners are concerned, they are seeking the relief to direct the respondents to re-fix the scale of pay. The said claim is already merged with the order passed by this Court. The learned Additional Government Pleader made a submission that the petitioners have already appeared before the Screening Committee. Thus, the claim of these petitioners is to be considered based on the recommendation of the Screening Committee and based on the Government Orders in-force for the purpose of fixation of pay by considering the principles laid down in order dated 10.03.2022. It is made clear that the contesting Authority shall consider the issues between the parties and take appropriate decision.

17. With these observations, the Writ Petitions stand disposed of. However, there shall be no order as to costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

Ssb

To

- 1.The Secretary,
The State of Tamil Nadu,
Department of Higher Education,
Fort St.George, Chennai-600 006.
- 2.The Member Secretary,
All India Council for Technical Education,
I.G.Sports Complex,
I.P.Estate, New Delhi-110 002.
- 3.The Commissioner,
The Directorate of Technical Education,
Guindy, Chennai-600 025.



+1 CC to M/s.SPL.GP. (SR-18130[F] dated 12/04/2022)

+1 CC to M/s.N. DILIP KUMAR, Advocate (SR-18210[F] dated 12/04/2022)

+12 CC to M/s.ISAAC CHAMBERS, Advocate (SR-18879[F], 18802 to 18812 dated 13/04/2022

W.P.(MD) No.12415 of 2020 etc.,

11.04.2022

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