



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2022

CORAM:

THE HONOURABLE **MR. JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.21723 of 2019

and

W.M.P (MD)No.18458 of 2019

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A.Niranjana

... Petitioner

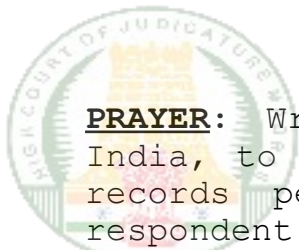
Vs.

- 1.The Principal Secretary to Government,
Finance(Pay Cell)Department,
Secretariat,
Chennai - 600 009.
- 2.The Registrar,
Mother Teresa Women's University,
Kodaikanal,
Dindigul District.
- 3.The Finance Committee,
represented by the Vice Chancellor/Chairman,
Mother Teresa Women's ,
Kodaikanal,
Dindigul District.
- 4.The Assistant Director,
Local Fund Audit,
Second Floor,
Collectorate, Dindigul.
- 5.The Finance Officer,
Mother Teresa Women's University,
Kodaikanal,
Dindigul District.
- 6.The Regional Joint Director,
Local Fund Audit,
Madurai.

(R3 and R4 cause title amended as per order of this Court made in W.M.P(MD)No.23104 of 2019 in W.P(MD)No. 21723 of 2019, dated 27.01.2020)

(R6 impleaded as per order of this Court made in W.M.P (MD)No.23554 of 2019 in W.P(MD)No.21723 of 2019, dated 27.01.2020)

... Respondents



PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings of the second respondent in Modified Proc.No.281/WU/Registrar/Estt/Pay Fixation/2019, dated 16.08.2019 and the Letter of the 5th Respondent dated 29.07.2019 in Letter No 12/WU/Finance /2019 and to quash to quash the same and consequently to direct the respondents 2 to 5 to restore the scale of pay of the Petitioner prior to the passing of the above impugned orders as per G.O.321 Finance(Pay Cell) Department, dated 2.7.1998 and G.O.241, Finance(Pay Cell) Department, dated 27.07.2013 and also Clarification Letter, dated 25.5.2015 issued by the State Government and to repay the recovered amount already from the Petitioner's salary.

For Petitioner : Mr.M.Muthugeethayan

For R1 : Mr.A.K.Manickam,
Special Government Pleader

For R2 to R5 : Mr.E.V.N.Siva

ORDER

The order of fixation of pay and consequential recovery are under challenge in the present writ petition.

2.The petitioner is working as Junior Assistant in the second respondent, Mother Teresa Women's University, Kodaikanal and the petitioner received the benefit of two advance incentive increment for possessing the qualification of degree.

3.The learned counsel appearing for the petitioner made a submission that as per the Government Order issued in G.O.Ms.No.321 Finance (Pay Cell) Department, dated 02.07.1998, the petitioner is entitled for fixation of pay and further, the petitioner is entitled for incentive increment for possessing higher educational qualification.

4.The learned Special Government Pleader appearing on behalf of the respondents made a submission that the petitioner is not eligible for incentive increment, as the minimum educational qualification fixed in the post of Junior Assistant in the second respondent University is degree. When the minimum educational qualification is fixed as Graduation, the said graduation cannot be considered as an additional qualification for the purpose of incentive increment. Therefore, the petitioner is not entitled for incentive increment for the degree qualification. She may be entitled in respect of the higher qualification if any acquired and if it is found eligible as per the Government Policy. Therefore, the case of the petitioner is to be rejected.



5.The learned counsel for the petitioner made a submission that certain clarifications are issued in respect of the incentive increment, the petitioner is at liberty to submit all those Government Orders.

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6.This Court is of the opinion that both the petitioner as well as the respondent are receiving counter allegations. Ultimately, it is found that the petitioner was not provided with an opportunity to explain her case. This Court cannot adjudicate this disputed issue in the writ petition. The parties have to produce all the relevant Government Orders regarding the fixation of pay, educational qualification etc., such an adjudication must be conducted by the original authority. In view of the fact that such an adjudication is not done by providing an opportunity to the writ petitioner, the case is to be remanded for an effective adjudication of the disputed issues.

7.Accordingly, the impugned order passed by the second respondent proceedings in Modified Proc.No.281/WU/Registrar/Estt/Pay Fixation/2019, dated 29.07.2019 is quashed and the matter is remanded back to the second respondent for fresh consideration. The second respondent is directed to issue a show cause notice setting out the details within a period of four weeks from the date of receipt of a copy of this order. On receipt of such show cause notice, the petitioner is directed to submit her explanation within a period of two weeks from the date of receipt of a show cause notice, along with documents if any. Thereafter, the respondents are directed to consider the petitioner's explanation and decide the issue on merits and in accordance with law, within a period of twelve weeks therefrom.

8.With these observations, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Principal Secretary to Government,
Finance(Pay Cell)Department,
Secretariat,
Chennai - 600 009.

<https://hcservices.ecourts.gov.in/hcservices/>



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3.The Finance Committee,
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Madurai.

+1 CC to M/s.M.MUTHUGEETHAYAN, Advocate (SR-6309[F] dated
15/02/2022)

+1 CC to M/s.SPL GP (SR-6236[F] dated 15/02/2022)

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RK(28/02/2022) 4P 9C