



W.P.(MD)No.28618 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:21.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.28618 of 2022

and

WMP(MD)Nos. 22647 and 22649 of 2022

C.Jessintha

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Department of Higher Education,
Fort St.George,
Chennai- 600 009.
- 2.The Director of Technical Education
Chennai - 600 025.
3. Arulmigu Palaniyandavar Polytechnic College,
represented by its Secretary cum Correspondent,
Palani 624 601.
4. The Principal
Arulmigu Palaniyandavar Polytechnic College,
Palani 624 601.
5. The Principal Accountant General (A and F)
Tamil Nadu, Teynampet, Chennai 600 006.

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamaus, calling for the records pertaining to the order dated 20.10.2022 in Se.Mu.Aa.No. 34513/C1/2021 issued by the 2nd respondent and the order dated 17.11.2022 passed by the 4th respondent in Se.Mu.Ka.No.2088/A4/2022, quash the same and consequently direct the respondents to retain the petitioner's pay in the AGP of Rs.9000/- in the scale of pay of Rs. 37400-67000+9000, with effect from 01.12.2012, award costs.

For Petitioner	: Mr.V.Ajoy Khose
For R1 to R4	: Mr.S.Saji Bino Special Government Pleader
For R5	: P.Gunasekaran

ORDER

This writ petition has been filed challenging the order passed by the second respondent dated 20.10.2022 and the order passed by the 4th respondent dated 17.11.2022 and to quash the same and consequently direct the respondents to retain the petitioner's pay in the AGP of Rs. 9000/- in the scale of pay of Rs.37400-67000+9000 with effect from 01.12.2012.



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2. The case of the petitioner is that she was joined as Librarian in Arulmigu Palaniyandavar Polytechnic College, Palani in the year 1982 and her service was regularised in the year 1987 and she was given revised scale of pay in the year 1986. While so, the first respondent issued G.O.(Ms).No.841, Education Department, dated 06.09.1993, extending the benefit of Career Advancement Scheme and provided for granting of Selection Grade and Special Grade scales of pay of Rs. 3000-100-3500-125-5000 and Rs.3700-125-4950-150-5700 respectively to the Librarians, who were working in Polytechnic Colleges on completion of 10 years and 20 years respectively. Since she was not given selection grade scale of pay, on completion of 10 years of service, apart from not sanctioning annual increments from October 1989, she has filed a writ petition in W.P.No.5924 of 1997 before this Court. Later, the writ petition was closed in the year 1998, on the ground that the relief sought for by the petitioner in the writ petition was already granted in the interim order. Therefore, the petitioner has filed a Review Petition No.14 of 2004 to restore the writ petition and the review petition was allowed



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by this Court on 24.03.2015 and the writ petition was ordered to be restored. Thereafter, the said writ petition was disposed of on 17.08.2015, directing the respondents 1 and 2 to consider the petitioner's request within a period of eight weeks. Since the respondents have not complied with the said order, the petitioner has filed a Contempt Petition No.2820 of 2015.

3. The petitioner was given Senior Grade in the post of Librarian with the scale of pay of Rs.10000-325-15200 with effect from 01.12.1999. Subsequently, she was given selection grade in the post of Librarian with effect from 01.12.2009. Since the petitioner has completed three years of service, the third respondent College granted special grade pay in the scale of pay of Rs.37400-67000+9000, with effect from 01.12.2012. On 31.05.2016, she retired from service on attaining the age of superannuation. After five years from the date of retirement, all of a sudden, the fourth respondent has issued an order, cancelling the special grade pay given to her with effect from 01.12.2012, which was given to her already by an order dated 31.05.2016. Further, the fourth respondent



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has directed the petitioner to remit back a sum of Rs.8,54,631/- towards the alleged excess payment made to her. The fourth respondent has passed the order on 26.02.2021, stating that as per AICTE Regulations 2016, she was not eligible to get the academic grade pay of Rs.9000/-. Hence, the petitioner has filed a writ petition in W.P.(MD).No.13623 of 2021 to quash the said order dated 26.02.2021.

4. This Court, by order dated 06.08.2021, allowed the writ petition and directed the respondents to provide an opportunity to the petitioner submit her explanation and proceed to pass orders on its own merits and in accordance with law, within a period of eight weeks. However, without providing opportunity, the second respondent has passed the impugned order on 20.10.2022, stating that the petitioner would be entitled only the AGP of Rs.8000/- in the scale of pay of Rs.15600-39100 with effect from 01.01.2006 and she is not entitled the AGP of Rs.9000/- as per the report given by the Screening Committee. The second respondent also issued directions to the fourth respondent to make recovery of the excess payment, if she has been granted the AGP of Rs.9000/-. Based on the



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above order and also based on the order of the third respondent College, the fourth respondent has passed the consequential impugned order on 17.11.2022. Challenging the same, the present writ petition has been filed.

5. The learned counsel appearing for the petitioner would submit that already this Court, by order dated 06.08.2021, in W.P.(MD).No. 13623 of 2021, directed the respondents to provide an opportunity to submit her explanation. However, without giving any opportunity, the second respondent has passed by the impugned order on 20.10.2022, which is not sustainable one and the violation of principles of natural justice.

6. Heard the learned counsel for the petitioner, learned Special Government Pleader appearing for the respondents 1 to 4 and the learned counsel appearing for the fifth respondent and perused the materials available on record.



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7. On perusal of the impugned order, it reveals that the order passed by the fourth respondent dated 26.02.2021, was challenged before this Court in W.P.(MD).No.13623 of 2021. This Court, by order dated 06.08.2021, allowed the writ petition and directed the respondents to provide an opportunity to the petitioner to submit her explanation and proceed to pass appropriate orders on its own merits and in accordance with law. However, the order of this Court was not complied with and without providing opportunity to the petitioner unilaterally arrived a conclusion, based on the report given by the Screening Committee. Hence, the impugned orders passed by the second respondent dated 20.10.2022 and the fourth respondent dated 17.11.2022 are set aside and the matter is remanded back to the second respondent and the second respondent is directed to furnish a report of the Screening Committee to the petitioner and provide opportunity to her and decide the matter within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petitions are closed.



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akv

To

- 1.The Department of Higher Education,
Government of Tamil Nadu,
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Chennai- 600 009.
- 2.The Director of Technical Education
Chennai - 600 025.
3. The Principal Accountant General (A and F)
Tamil Nadu, Teynampet, Chennai 600 006.



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M.DHANDAPANI,J.

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