**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 12.12.2023**

**CORAM**

**THE HONOURABLE Ms.JUSTICE R.N.MANJULA**

**W.P.Nos.7905, 7923, 8594, 8707, 8749, 8750, 8751, 8966, 8985, 8988, 8989, 8990, 8991, 8992, 8993, 8994, 8996, 9004, 9019, 9080, 9081, 9082, 9083, 9085, 9123, 9124, 9126, 9128, 9171, 9172, 9173, 9174, 9175, 9178, 9180, 9181, 9183, 9184, 9187, 9189, 9190, 9198, 9199, 9200, 9202, 9203, 9212, 9234, 9237, 9238, 9241, 9242, 9244, 9246, 9247, 9250, 9254, 9313, 9315, 9316, 9317, 9367, 9369, 9371, 9407, 9408, 9409, 9410, 9411, 9412, 9413, 9414, 9415, 9416, 9464, 9466, 9467, 9468, 9470, 9477, 9479, 9494, 9495, 9496, 9513, 9514, 9516, 9517, 9520, 9522, 9523, 9525, 9527, 9529, 9530, 9531, 9532, 9549, 9633, 9810, 9813, 9815, 9860, 9862, 10130, 10789, 10794, 10811, 10813, 10815, 10950, 10953, 10954, 10966, 11065, 11102, 11888, 11889, 11890, 11938, 11940, 11941, 12302, 12310, 12316, 12675, 13049, 13409, 13837, 13838, 13841, 13843, 13844 of 2020**
**and W.P.(MD) Nos.7347 & 7353 of 2020**
**and W.M.P.Nos.9338, 10557, 10558, 10618, 10621, 10968, 10969, 11061, 11063, 11064, 11062, 11060, 11124, 11126, 11129, 11130, 11188, 11190, 11194, 11196, 11197, 11199, 11201, 11203, 11206, 11209, 11221, 11222, 11223, 11224, 11226, 11238, 11371, 11373, 11374, 11375, 11451, 11453, 11456, 11493, 11495, 11498, 11500, 11502, 11494, 11496, 11497, 11499, 11501, 11565, 11568, 11570, 11571, 11572, 11582, 11583, 11594, 11595, 11596, 11612, 11613, 11614, 11616, 11618, 11620, 11621, 11625, 11626, 11633, 11634, 11635, 11636, 11926, 11928, 11979, 11980, 13032, 13037, 11759, 11760, 13102, 13125, 13126, 13132, 13108, 13316, 13317, 13319, 13330, 13471, 13473, 13543, 13544, 14659, 14662, 16446, 15113, 15116, 15121, 15126, 15128, 16177, 17202, 17203, 17204, 17206, 17207, 9359, 10390,10401, 10614, 10620, 10622, 10900, 10902, 10948, 11187, 11189, 11191, 11260, 11263, 11264, 11267, 11270, 11271, 11274, 11275, 11280, 11282, 11931,14600, 14602, 14604, 15654 of 2020**
**and W.M.P.(MD)Nos.6802 & 6797 of 2020**

**W.P.No.7905 of 2020**

Dr.M.S.Balasubramaniam ... Petitioners

/vs/

1.The Additional Chief Secretary to Government,
Health & Family Welfare (A1) Department,
Fort St.George, Chennai - 9.

2.The Principal Secretary to Government,
Finance (PC) Department,
Fort St.George, Chennai - 9.

3.The Director of Medical Education,
Kilpauk, Chennai - 10. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus Calling for the records of the 2nd Respondent in connection with the Impugned order passed by him in G.O.MS.NO 236 Finance (Pay Cell) Department dated 12.7.2018 and to quash the same in so far as it confines the eligibility scales of pay at Rs.12000/- is concerned and the consequential order passed by the 3rd Respondent in his Ref.no 69563/A3/2018 dated 10.11.2018 and direct the Respondents to revise the pension only with reference to the requisite number of years of service 20 years and above, based on the time bound Promotion granted by the Government in G.O.MS.No.354, Health and Family Welfare department dated 23.10.09 and also G.O.Ms.No.106, Higher Education Department dated 14.05.16 and consequently direct the respondents to draw and disburse the difference of pension within a limited time frame deem fit by this Court.

**For Petitioners**

| | | |
|---|---|---|
| W.P.Nos.7905, 7923, 8594, 8749, 8750, 8751, 8966, 8985, 8988, 8989, 8990, 8991, 8992, 8993, 8994, 8996, 9123, 9124, 9126, 9128, 9171, 9172, 9173, 9174, 9175, 9178, 9180, 9181, 9183, 9184, 9187, 9189, 9190, 9198, 9199, 9200, 9202, 9203, 9212, 9234, 9237, 9238, 9241, 9242, 9244, 9246, 9247, 9250, 9254, 9313, 9315, 9316, 9317, 9367, 9369, 9371, 9407, 9409, 9412, 9414, 9416, 9408, 9410, 9411, 9413, 9415, 9464, 9466, 9467, 9468, 9470, 9477, 9479, 9494, 9495, 9496, 9513, 9514, 9516, 9517, 9520, 9522, 9523, 9525, 9527, 9529, 9530, 9531, 9532, 9549, 9633, 9810, 9813, 9815, 9860, 9862, 10130, 10789, 10794, 10811, 10813, 10815, 10950, 10953, 10954, 10966, 11065, 11102, 11888, 11889, 11890, 11938, 11940, 11941, 12302, 12310, 12316, 12675, 13049, 13409, 13837, 13838, 13841, 13843 and 13844 of 2020 | : | Mr.K.Venkataramani, Senior Counsel for Mr.M.Muthappan |
| W.P.Nos.8707, 9004, 9080, 9081, 9082, 9083 & 9085 of 2020 | : | Mr.L.Chandrakumar |
| W.P.No.9019 of 2020 | : | Mr.R.Subramanian |
| W.P.(MD) Nos.7347 & 7353 of 2020 | : | Mr.B.Saravanan |

| | | |
|---|---|---|
| **For Respondents** [in all Writ Petitions] | : | Mr.P.S.Raman, Senior Counsel for Finance Department |

assisted by
Mr.Stalin Abhimanyu,
Additional Government Pleader
Mr.S.Silambanan,
Additional Advocate General
for Health Department
assisted by Mr.Stalin Abhimanyu,
Additional Government Pleader

****

## COMMON ORDER

As the issue involved in all these writ petitions are similar, they are considered together and this common order is passed.

2. W.P.Nos.8594, 8707, 8749, 8750, 8751, 8966, 9019, 9810 and 11102 of 2020 and W.P.(MD) Nos.7353 & 7347 of 2020 have been filed challenging the Show Cause Notice issued by the Government in Letter No.56930/PC2/2018-4, dated 23.05.2020. For the sake of convenience, these writ petitions are hereinafter referred to as '***Type I***'.

3. W.P.Nos.7905, 7923, 8985, 8988, 8989, 8990, 8991, 8992, 8993, 8994, 8996, 9004, 9080, 9081, 9082, 9083, 9085, 9123, 9124, 9126, 9128, 9171, 9172, 9173, 9174, 9175, 9178, 9180, 9181, 9183, 9184, 9187, 9189, 9190, 9198, 9199,

9200, 9202, 9203, 9212, 9234, 9237, 9238, 9241, 9242, 9244, 9246, 9247, 9250, 9254, 9313, 9315, 9316, 9317, 9367, 9369, 9371, 9407, 9408, 9409, 9410, 9411, 9412, 9413, 9414, 9415, 9416, 9464, 9466, 9467, 9468, 9470, 9477, 9479, 9494, 9495, 9496, 9513, 9514, 9516, 9517, 9520, 9522, 9523, 9525, 9527, 9529, 9530, 9531, 9532, 9549, 9633, 9813, 9815, 9860, 9862, 10130, 10789, 10794, 10811, 10813, 10815, 10950, 10953, 10954, 10966, 11065, 11888, 11889, 11890, 12302, 12310, 12316, 12675, 13049, 13837, 13838, 13841, 13843, 13844 and 13409 of 2020 have been filed seeking for issuance of a writ of mandamus to extend the benefit of G.O.Ms.No.236, Finance Department, dated 12.07.2018 to themselves also. For the sake of convenience, these writ petitions are hereinafter referred to as '***Type II***'.

4. Writ Petitioners in W.P.Nos.11938, 11940 and 11941 of 2020, who are Dental Surgeons, worked as Principals in Dental Colleges and they have given representation to the Government to consider their cases on par with Dr.K.S.Gamal Abdul Nasser and to extend the benefit of G.O.Ms.No.236, Finance Department, dated 12.07.2018. Since their representations have been rejected by a non-speaking order, they have filed the above writ petitions seeking to quash G.O.Ms.No.300,

Finance Department, dated 20.07.2020, G.O.Ms.No.298, Finance Department, dated 16.07.2020, G.O.Ms.No.302, Finance Department, dated 20.07.2020 and G.O.Ms.No.372, Finance Department, dated 13.10.2020 respectively and to direct the respondents to pass orders extending the benefit of G.O.Ms.No.236, Finance Department, dated 12.07.2018, to them. For the sake of convenience, these writ petitions are hereinafter referred to as '***Type III***'.

5. The Government order in G.O.Ms.No.236, Finance Department, dated 12.07.2018 is the origin of all these litigations and the above Government Order arises out of an earlier order passed in favour of one Dr.K.S.Gamal Abdul Nasser in G.O.Ms.No.64, Health and Family Welfare Department, dated 19.02.2018. The above G.O.Ms.No.64, dated 19.02.2018 came to be passed pursuant to an order passed in favour of Dr.K.S.Gamal Abdul Nasser in W.P.No.33656 of 2016. The writ petition filed by Dr.K.S.Gamal Abdul Nasser was allowed and the Writ Appeal in W.A.No.1341 of 2017 filed by the Government challenging the above order was dismissed on 14.12.2017. In view of the benefit enjoyed by Dr.K.S.Gamal Abdul Nasser by virtue of the orders passed in his writ petition, several other Doctors, who were similarly placed like him gave representation to the Government to

extend the benefit given to Dr.K.S.Gamal Abdul Nasser to them also. After considering such representations, the Government passed the Government Order in G.O.Ms.No.236, Finance Department, dated 12.07.2018 extending the benefit granted to Dr.K.S.Gamal Abdul Nasser to other Doctors who are eligible to get the revised pension in accordance with the conditions stipulated under Paragraph Nos.6 to 8 of the G.O.Ms.No.236, Finance Department, dated 12.07.2018. For the sake of clarity, paragraph Nos.6 to 8 are extracted hereunder:

> *6. The Government after careful consideration has decided to revise the Pension / Family Pension of the Professors / Medical Officers retired prior the date of issue of Government Order first read above on the basis of the orders issued in the Government Orders third and seventh read above with prospective effect considering the financial commitment due to issue of this general orders. Accordingly, Government direct that the Pension / Family Pension of the Professors / Medical Officers (Rs.12000-16500) retired prior to 23.10.2009 shall be revised with reference to the higher pay scales granted to the Professors who were elevated to Chief Civil Surgeons due to time bound upgradation in the Government Order first read above under clause (2) of para-5 of Government Order sixth read above with reference to the revised Level 28 of pay matrix of Rs.123100-215900 as*

*against the upgraded pre-revised pay scale of Rs.37400-67000 + Grade Pay Rs. 8700 at Rs.61,550/- and Rs.36,930/- respectively with prospective monetary effect from 1st July 2018 subject to fulfilling the condition of net qualifying service stipulated for full pension and issue orders accordingly.*

*7. Based on the above orders, retired Professors / Medical Officers shall apply to the authority in the Department in which the Government employee last served who is competent to process and forward pension proposals to the Accountant General / Pension Pay Officer / Treasury Officers concerned in the prescribed form as at Annexure-I of Government Order sixth read above in triplicate. The authority concerned shall revise both Pension / Family Pension of the Pensioners / Family Pensioners accordingly.*

*8. The competent authority shall verify the net qualifying service and fix the revised Pension / Family Pension admissible as ordered above and communicate the copy of statement duly approved to the Pension Pay Officer, Chennai / Treasury Officers / Sub Treasury Officers concerned with a copy to the retired Pensioners / Family Pensioners.*

6. Accordingly, the pension of the petitioners under Type I have been revised

and they have been drawing the revised pension as per G.O.Ms.No.236, Finance Department, dated 12.07.2018. Subsequently, lot of other Doctors, who have completed twenty years of service and were getting the scale of pay of Rs.12000-16500 have also made representations to the Government to extend the benefit of G.O.Ms.No.236, dated 12.07.2018 to them also. In fact, the petitioners under Type II have also given representations to the Government to consider their cases to be covered under G.O.Ms.No.236, Finance Department, dated 12.07.2018.

7. However, the Government has chosen to issue the impugned Show Cause Notice dated 23.05.2020 to the Type I petitioners (who were already getting the benefits of G.O.Ms.No.236) and called upon them to come with their objections, for the government's proposal to withdraw the benefit conferred under G.O.Ms.No.236. Hence, the petitioners have filed the respective writ petitions challenging the above Show Cause Notice.

8.Mr.K.Venkatramani, learned Senior Counsel appearing for the petitioners, submitted that the above Show Cause Notice is quite contrary to the well established principles of law and in fact, Show Cause Notice contains only the preconclusion already arrived by the Government and there is no open-mindedness for any further consideration on receiving the representations/objections, if any, to be made by the petitioners. Attention was drawn to the following paragraphs incorporated in the impugned Show Cause Notice, dated 23.05.2020:

> *4. In pursuance of such representations, Government have decided to re-examine the correctness of the orders issued in Government Order sixth cited and on further examination the following points have been considered:-*
>
> *(i) The post of Professor was created in the Directorate of Medical Education in the Government Order first cited, with effect from 23.10.2009 alone. The said post of Professor was not at all in existence before 23.10.2009. Hence, persons who retired in the combined cadre of Associate Professor/ Professor before 23.10.2009 never held the post of Professor, since the said post was not in existence then. As such, those who retired prior to 23.10.2009 are not eligible for the benefit of revision of pension as per Government Order fifth cited at 50% of the minimum of the pre-revised scale of pay in Pay Band 4, allowed to the newly created post of Professor.*

*(ii) The Medical Officers who retired prior to 23.10.2009 were actually holding the post of Readers / Associate Professors and they were only designated as Professors on completion of four years of service in the cadre of Reader / Associate Professor. Hence, they cannot be regarded as 'holding the post of Professor' in the cadre of Chief Civil Surgeon which was created in Government Order first cited.*

*(iii) The pre-revised scale of pay of Rs.37,400-67,000 + G.P 8700 and the corresponding revised scale of pay of Rs.1,23,100 - 2,15,900 (Level-28) granted to the newly created post of Professor in the rank of Chief Civil Surgeon is not applicable to the Medical Officers who retired prior to 23.10.2009. Hence, the post of Professor created in the Government Order first cited cannot be considered as the relevant corresponding post to revise the Pension of the designated Professors under G.O.Ms.No.235, Finance (Pay Cell) Department, dated 01.06.2009. The Medical faculty who retired prior to 23.10.2009 in the combined cadre of Associate Professor / Professor belonged to the cadre of Senior Civil Surgeon and not that of Chief Civil Surgeon. Further, they were in the scale of pay of Rs.12,000 - 375 - 16,500 which actually corresponds to the scale of pay of Rs. 15,600 - 39,100 + G.P 7,600 in the pre-revised scale and at Rs.61,900 - 1,96,700 (Level-26) in the revised scale of pay 2017. Hence, it is not correct to revise*

*their pension with reference to the pay scale granted to the newly created post of Professor in the rank of Chief Civil Surgeon.*

*(iv) The pay scale of the designated Professors cannot be said to have been upgraded by virtue of Government Order first cited since an exclusive post of Professor in the rank of Chief Civil Surgeon in the corresponding pay scale did not exist prior to 23.10.2009. Had the combined post of Associate Professor / Professor been retained as it was and its pay scale alone been enhanced to Rs.37,400 - 67,000+ G.P 8700, then such upgradation of pay scales can be considered as pay revision. But, since the combined post of Associate Professor/Professor was split into two and a new post of Professor was created in the cadre of Chief Civil Surgeon, the pay scale attached to the new post of Professor cannot be considered as an upgraded pay scale of the erstwhile post of Associate Professor/Professor.*

*(v) The question of designated Professors who retired prior to 23.10.2009 claiming parity in pension with their juniors retired after 23.10.2009 does not arise since the Government Order first cited was given effect to prospectively, i.e. from the date of issue of the said Government Order and hence it would not be appropriate to apply the same retrospectively.*

*(vi) In the Government Order third cited, the pension of all the UGC Pensioners who retired prior to 1986 in the post of Professor and completed a total service of 19 years and above and whose pension had been revised in the scale of pay of Rs. 12,000 - 420-18,300 w.e.f. 01.01.1996 was stepped upto 50% of the minimum of the pay in the pay Band of Rs.37,400 - 67,000+ GP 8700, considering them as those who have completed 3 years in the post of Lecturer (Selection Grade). The said benefit cannot be extended to the faculty in Medical Colleges since in the case of UGC Pensioners, the post of Professor was in existence even before the year 1986, whereas in the case of the medical faculty the post of Professor in the cadre of Chief Civil Surgeon was created only on 23.10.2009.*

*(vii) Orders issued in Government Order sixth cited necessitate the creation of large number of supernumerary post of Professors in the cadre of Chief Civil Surgeon to accommodate those who retired prior to 23.10.2009, since the post of 'Professor' did not exist before 23.10.2009 and such creation of large number of supernumerary posts of Professors will violate the condition stipulated in this regard in the Government Order first cited.*

*(viii) The orders issued in Government Order sixth cited, giving retrospective effect to the Government Order first cited is in*

*contravention of the orders of the Hon'ble High Court of Madras in W.A.No.992 and 993 of 2013 as upheld by the Hon'ble Supreme Court in SLP Nos. 25479 and 25480 of 2015.*

*(ix) The financial implications at about Rs.2.00 lakh per annum/per pensioner for about 15,000 retirees is estimated to be of the order of Rs.300 crores per annum and it will increase with every passing year. Given the present fiscal situation, the Government is not in a position to afford the above financial commitment.*

*5.After careful consideration of the above aspects and also considering the estimated recurring expenditure involved, it is considered that it may not be feasible to sustain the orders issued in the Government Order sixth cited.*

*6. Hence, the Government Order sixth cited is proposed to be cancelled with prospective effect, and the enhanced pension/family pension drawn by Medical Officers/their family members by virtue of Government Order sixth cited will be restored to the rates admissible prior to the issue of Government Order sixth cited, without any recovery from their pension/family pension. If the Medical Officers / their family members, who are in receipt of enhanced pension/family pension based on the orders issued in Government Order sixth cited have any objection to the same, representations in this regard should* *be addressed to the Deputy Secretary to Government, Finance (Pay Cell) Department, Secretariat, Chennai - 9 so as to reach on or before 19.06.2020 failing which it will be considered that there is no objection to Government's proposed action.*

9. Attention was drawn to Paragraph No.4 of the Show Cause Notice, which reads that the Government is incurring huge expenditure and hence, it may not be feasible to sustain the orders issued under G.O.Ms.No.236 any more. So it is argued that the Government had already decided not to extend the benefit to the petitioners and hence, Show Cause Notice itself is fundamentally illegal and it has to be set aside.

10. Mr.R.Subramanian, learned Counsel submitted that as per Rule 56 of the Tamil Nadu Pension Rules, 1978, there cannot be any revision of pension after it has been sanctioned except for the reasons envisaged under Rule 56 of the Tamil Nadu Pension Rules. He further submitted that the Government has chosen to issue the Show Cause Notice without any of the circumstances that has been stated under Rule 56 of the Tamil Nadu Pension Rules. Rule 56 of the Tamil Nadu Pension Rules reads as under:

***56.Revision of pension after sanction.-*** *(1)Subject to the provisions of rules 8 and 9, pension once sanctioned after final assessment shall not be revised to the disadvantage of the Government servant, unless such revision becomes necessary on account of detection of clerical error subsequently and where it is found to be in excess of the amount finally assessed by the Audit Officer:*

*Provided that no revision of pension to the disadvantage of the pensioner shall be ordered by the pension sanctioning authority without the sanction of the Government if the clerical error is detected after a period of two years from the date of sanction of pension.*

*(2)For the purposes of sub-rule (1) the Government servant concerned shall be served with a notice by the pension sanctioning authority, requiring him to refund the excess payment of pensions within a period of two months from the date of receipt of notice by him.*

*(3)In case the Government servant fails to comply with the notice, their pension sanctioning authority shall, by order in writing direct that such excess payment shall be adjusted by short payments of pension in future, in one or more instalments, as the said authority may direct.*

11.In support of the above contention, the learned Counsel cited the decision of the Hon'ble Supreme Court in ***Kaikhosrou (Chick) Kavasji Framji vs. Union of India and another*** reported in ***2019 20 SCC 705***, ***J.S.Yadav v. State of Uttar Pradesh and another*** reported in ***2011 6 SCC 570*** and ***SIEMENS Ltd., vs. State of Maharashtra and others*** reported in ***2006 12 SCC 33***.

12.Mr.P.S.Raman, learned Senior Counsel for the respondent submitted that the Show Cause Notice cannot be construed as a pre-concluded decision taken by the Government and the Government has just stated about the *prima facie* grounds or reasons as to why the benefit conferred under G.O.Ms.No.236 should not be withdrawn. He further submitted that whenever a financial benefit is extended to the Government servants, the benefit so extended cannot be considered as irrevocable benefit, even if it was given on some sheer mistake or on any erroneous grounds. Mr.P.S.Raman, learned Senior Counsel for the respondent submitted that the Government has not passed any order after considering the representations of the petitioners. Hence, the writ petitions filed challenging the Show Cause Notice are pre-matured ones.

13.In this regard, it is relevant to refer to the judgment of Hon'ble Supreme

Court in ***Oryx Fisheries Private Limited vs. Union of India and Others*** reported in ***(2010) 1 SCC 427***, wherein it is observed that, if on a reasonable reading of a show-cause notice, a person of ordinary prudence gets the feeling that his reply to the show-cause notice is just an empty ceremony, the show cause notice is just formal and it is not going to serve any purpose. Such Show Cause Notice cannot be considered as fair and reasonable. In the said judgment, the earlier judgment rendered in ***Khem Chand v. Union of India*** reported in ***AIR 1958 SC 300*** has been followed. The relevant paragraphs in the above judgment can be extracted hereunder:

> *31.It is true that the show-cause notice cannot be read hypertechnically and it is well settled that it is to be read reasonably. But, while reading a show-cause notice the person who is subject to it must get an impression that he will get an effective opportunity to rebut the allegations contained in the show-cause notice and prove his innocence. If on a reasonable reading of a show-cause notice a person of ordinary prudence gets the feeling that his reply to the show-cause notice will be an empty ceremony and he will merely knock his head against the impenetrable wall of prejudged opinion, such a show-cause notice does not commence a fair procedure especially when it is issued*

*in a quasi-judicial proceeding under a statutory regulation which promises to give the person proceeded against a reasonable opportunity of defence.*

*32.Therefore, while issuing a show-cause notice, the authorities must take care to manifestly keep an open mind as they are to act fairly in adjudging the guilt or otherwise of the person proceeded against and specially when the authority has the power to take a punitive step against the person after giving him a show-cause notice.*

*33.The principle that justice must not only be done but it must eminently appear to be done as well is equally applicable to quasi-judicial proceeding if such a proceeding has to inspire confidence in the mind of those who are subject to it.*

14.Normally the Show Cause Notice is a nascent stage and without exhausting the opportunity given under Show Cause Notice, the petitioners cannot challenge its legality. However, in exceptional circumstances, if the Show Cause Notice in the opinion of a prudent person is just a conveyance of the decision already made by the Government and his representation is not going to serve any purpose, such Show Cause Notice cannot be considered as notice issued for complying a fair procedure or on the pedestal of principles of natural justice. Without going into the merits of the matter and also taking into consideration of the delay already involved in settling the position about the continuation of implementation of G.O.Ms.No.236, Finance Department, dated 12.07.2018, this Court is of the view that it is appropriate for the Government to consider the representations of the petitioners without being influenced by its reasoning or observations made under Paragraph Nos.4, 5 and 6 of the impugned Show Cause Notice and to look into the representations afresh with open mind and also by examining the issue in the light of Rule 56 of the Tamil Nadu Pension Rules and any other legal precedents on these point and then pass orders. Setting aside the Show Cause Notice will only result in issuance of fresh Show Cause Notice and that will cause further delay.

15.Since the main grievance of the petitioners is with regard to the matters stated under Paragraph Nos.4, 5 and 6 of the impugned Show Cause Notice, this Court is of the view ***that part*** of the Show Cause Notice alone can be set aside by granting liberty to the petitioners and all similarly placed persons to make their representations to the Government and on receipt of the same, the Government shall consider the representations in the light of the observations already made and uninfluenced by the contents of Paragraph Nos.4, 5 and 6 of the impugned Show Cause Notice and shall pass orders.

16. In view of the same, Type-I petitioners and other similarly placed persons are given with a liberty to make their representations afresh within a period of three weeks from the date of receipt of a copy of this order and on receipt of the same, the respondents shall consider their representations in the light of the above observations and shall pass a speaking order, within a period of twelve weeks from the date of receipt of the representations from the petitioners.

17. Insofar as Type II petitioners are concerned, they have filed the writ petitions seeking for a direction to the respondents to consider them also to be placed under the ambit of G.O.Ms.No.236, Finance Department, dated 12.07.2018. So it can only be said that their eligibility or entitlement can be decided by the Government only consequent to the orders that would be passed in respect of the

entitlement of other petitioners for continuing to get the benefit of G.O.Ms.No.236, Finance Department, dated 12.07.2018. So, the respondents shall consider and pass orders as to the entitlement of these petitioners depending upon the outcome of the orders that is going to be passed as per the earlier directions.

18. Insofar as W.P.Nos.11938, 11940 and 11941 of 2020 are concerned, the impugned orders have been passed without application of mind and the order itself is a non-speaking one and hence, the same is liable to be set aside and the respondents shall pass a fresh order in respect of these petitioners by taking into consideration of the continuation of G.O.Ms.No.236, Finance Department, dated 12.07.2018 without any hurdle.

In the result,

(i) Type I - W.P.Nos.8594, 8707, 8749, 8750, 8751, 8966, 9019, 9810 and 11102 of 2020 and W.P.(MD) Nos.7353 & 7347 of 2020 are disposed of by setting aside Paragraph Nos.4, 5 and 6 of the impugned Show Cause Notice and the petitioners herein and other similarly placed persons are directed to make their representations within a period of three weeks from the date of receipt of a copy of this order and on receipt of the same, the respondents shall consider the representations along with the relevant pension rules and all other precedents and shall pass an order, within a period of twelve weeks from the date of receipt of the representations from the petitioners.

(ii) Type II - W.P.Nos.10130 of 2020, 7905, 7923, 8985, 8988, 8989, 8990, 8991, 8992, 8993, 8994, 8996, 9004, 9080, 9081, 9082, 9083, 9085, 9123, 9124, 9126, 9128, 9171, 9172, 9173, 9174, 9175, 9178, 9180, 9181, 9183, 9184, 9187, 9189, 9190, 9198, 9199, 9200, 9202, 9203, 9212, 9234, 9237, 9238, 9241, 9242, 9244, 9246, 9247, 9250, 9254, 9313, 9315, 9316, 9317, 9367, 9369, 9371, 9407, 9408, 9409, 9410, 9411, 9412, 9413, 9414, 9415, 9416, 9464, 9466, 9467, 9468, 9470, 9477, 9479, 9494, 9495, 9496, 9513, 9514, 9516, 9517, 9520, 9522, 9523, 9525, 9527, 9529, 9530, 9531, 9532, 9549, 9633, 9813, 9815, 9860, 9862, 10789, 10794, 10811, 10813, 10815, 10950, 10953, 10954, 10966, 11065, 11888, 11889, 11890, 12302, 12310, 12316, 12675, 13049, 13837, 13838, 13841, 13843, 13844 and 13409 of 2020 are disposed by directing the respondents to consider and pass orders as to the entitlement of these petitioners depending upon the outcome of the orders that is going to be passed in respect of G.O.Ms.No.236, Finance Department, dated 12.07.2018.

(iii)Type III - W.P.Nos.11938, 11940 and 11941 of 2020 are allowed and the impugned orders in G.O.Ms.No.300, Finance Department, dated 20.07.2020, G.O.Ms.No.298, Finance Department, dated 16.07.2020, G.O.Ms.No.302, Finance Department, dated 20.07.2020 and G.O.Ms.No.372, Finance Department, dated 13.10.2020 are hereby quashed. The respondents shall pass a fresh order in respect of these petitioners by taking into consideration the outcome of the Government Order as to the continuation of G.O.Ms.No.236, Finance Department, dated 12.07.2018.

No costs. Consequently, other connected miscellaneous petitions are closed.

**12.12.2023**

Index: Yes / No **(2/2)**
Speaking order / Non-speaking order
ssr

To:

1.The Additional Chief Secretary to Government,
Health & Family Welfare (A1) Department,
Fort St.George, Chennai - 9.

2.The Principal Secretary to Government,
Finance (PC) Department,
Fort St.George, Chennai - 9.

3.The Director of Medical Education,
Kilpauk, Chennai - 10.

**R.N.MANJULA ,J.**

ssr

**W.P.Nos.7905, 7923, 8594, 8707, 8749, 8750, 8751, 8966, 8985, 8988, 8989, 8990, 8991, 8992, 8993, 8994, 8996, 9004, 9019, 9080, 9081, 9082, 9083, 9085, 9123, 9124, 9126, 9128, 9171, 9172, 9173, 9174, 9175, 9178, 9180, 9181, 9183, 9184, 9187, 9189, 9190, 9198, 9199, 9200, 9202, 9203, 9212, 9234, 9237, 9238, 9241, 9242, 9244, 9246, 9247, 9250, 9254, 9313, 9315, 9316, 9317, 9367, 9369, 9371, 9407, 9408, 9409, 9410, 9411, 9412, 9413, 9414, 9415, 9416, 9464, 9466, 9467, 9468, 9470, 9477, 9479, 9494, 9495, 9496, 9513, 9514, 9516, 9517, 9520, 9522, 9523, 9525, 9527, 9529, 9530, 9531, 9532, 9549, 9633, 9810, 9813, 9815, 9860, 9862, 10130, 10789, 10794, 10811, 10813, 10815, 10950, 10953, 10954, 10966, 11065, 11102, 11888, 11889, 11890, 11938, 11940, 11941, 12302, 12310, 12316, 12675, 13049, 13409, 13837, 13838, 13841, 13843, 13844 of 2020**
**and W.P.(MD) Nos.7347 & 7353 of 2020**
**and W.M.P.Nos.9338, 10557, 10558, 10618, 10621, 10968, 10969, 11061, 11063, 11064, 11062, 11060, 11124, 11126, 11129, 11130, 11188, 11190, 11194, 11196, 11197, 11199, 11201, 11203, 11206, 11209, 11221, 11222, 11223, 11224, 11226, 11238, 11371, 11373, 11374, 11375, 11451, 11453, 11456, 11493, 11495, 11498, 11500, 11502, 11494, 11496, 11497, 11499, 11501, 11565, 11568, 11570, 11571, 11572, 11582, 11583, 11594, 11595, 11596, 11612, 11613, 11614, 11616, 11618, 11620, 11621, 11625, 11626, 11633, 11634, 11635, 11636, 11926, 11928, 11979, 11980, 13032, 13037, 11759, 11760, 13102, 13125, 13126, 13132, 13108, 13316, 13317, 13319, 13330, 13471, 13473, 13543, 13544, 14659, 14662, 16446, 15113, 15116, 15121, 15126, 15128, 16177, 17202, 17203, 17204, 17206, 17207, 9359, 10390,10401, 10614, 10620, 10622, 10900, 10902, 10948, 11187, 11189, 11191, 11260, 11263, 11264, 11267, 11270, 11271, 11274, 11275, 11280, 11282, 11931,14600, 14602, 14604, 15654 of 2020**
**and W.M.P.(MD)Nos.6802 & 6797 of 2020**

**12.12.2023**

**(2/2)**