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Writ Petition No.19316 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

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THE HONOURABLE DR.JUSTICE D.NAGARJUN

Writ Petition No.19316 of 2014
& MP No.1 of 2014

Prof.Dr.A.Veerappan

..Petitioner

vs.

1.The Secretary to Government,
Finance Department,
Fort St George,
Chennai-09

2.The Secretary to Government,
Department of Law,
Fort St.George,
Chennai-09

3.The Director of Legal Studies,
Kilpauk,
Chennai-10

4.The Principal,
Dr.Ambedkar Government Law College,
Chennai-104

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the



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records in pursuant to the impugned order passed by the third respondent vide proceedings in Mu.Mu.No.78/A4/2012 dated 14.05.2013 and the impugned order issued by the 4th respondent vide proceedings Ka.Na.No.1341/A2/2013 dated 24.05.2013 and quash the same and consequently, direct the respondents to pay the regular annual increment to the petitioner and implement the revised scale of pay to the petitioner with effect from 01.01.2006 as per the recommendations of the pay commission with arrears of pay and other consequential monetary benefits in the revised scale with interest within the stipulated time.

For Petitioner : Mr.R.Prem Narayan

For Respondents : Mr.R.U.Dinesh Raj Kumar, AGP

ORDER

This Writ Petition has been filed, seeking for issuance of a Certiorarified Mandamus, to call for the records of the impugned order passed by the third respondent vide proceedings in Mu.Mu.No.78/A4/2012 dated 14.05.2013 and the impugned order issued by the 4th respondent vide proceedings Ka.Na.No.1341/A2/2013 dated 24.05.2013 and quash the same and consequently, direct the respondents to pay the regular annual increment to the petitioner and implement the revised scale of pay to the



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petitioner with effect from 01.01.2006 as per the recommendations of the pay commission with arrears of pay and other consequential monetary benefits in the revised scale with interest within the stipulated time.

2.It is submitted by the learned counsel for the petitioner that the petitioner worked as selection grade Lecturer in Dr. Ambedkar Government Law College, Chennai and retired from service on 30.09.2005. The Government issued G.O Ms.No.207, Law (LS) Department dated 30.09.2005 providing re-employment to the retired personnel with effect from 01.10.2005 to 31.05.2006. By virtue of the same, the petitioner continued in service till 31.05.2006. In the meanwhile, the pay revision recommended by the IV Pay Commission came to be effected and the salaries of the employees were revised with effect from 01.01.2006 vide G.O.Ms.No.234, Finance Pay Cell Department dated 01.06.2009 retrospectively.

3. The petitioner has filed this Writ Petition, thereby seeking to extend the benefit of the Pay Revision, which is made effect from 01.01.2006 since the petitioner was in re-employment from 01.10.2005 till



31.05.2006. The learned counsel for the petitioner has quoted the judgment of the Hon'ble Apex Court in the case of “***State of Kerala and Another Vs. P.V.Neelakandan Nair and Others***” reported in 2005 (5) SCC 561.

4. In fact, earlier, similar Writ Petitions in W.P.Nos.13209, 17295 and 22063 of 2010 have been filed by the teachers whose services were continued after their retirement on re-employment, seeking to grant of annual increment and for implementation of the revised scale of pay with effect from 1.1.1996 and 1.1.2006 respectively on the basis of the recommendations of the 6th Pay Commission.

5.This Court, while dealing with the similar issue, has made distinction between the Kerala State Service Rules and the Tamil Nadu State Service Rules. The Hon'ble Supreme Court, in the decision cited supra, interpreted the Rule 60(C) (Part I) of the Kerala State Service Rules wherein, the extension of service to retired employees was not called as re-employment. In that case, the Rule itself had prescribed that no increment or promotion during the re-employment period. But it did not refer to benefit of wage fixation taking place during the period and hence, it was



held that the retired teachers therein were eligible for a wage revision.

However, so far as the teachers in the State of Tamil Nadu are concerned, though teachers were allowed to work after their retirement, they were asked to work on re-employment thereby, it is observed by this Court that extending services of the teachers by way of re-employment in the State of Tamilnadu is only by way of executive orders whereas, continuation of service in the Kerala was by way of statutory rules and hence, this Court has declined to extend the benefits. The relevant portion of the order passed by this Court in WP.Nos.13209, 17295 and 22063 of 2010 dated 21.03.2011 in paragraph no.11 of the said order is extracted below:

“11. In this State the teachers are allowed to work based upon the executive order of the Government on re-employment basis and not on the basis of continuation of service. Therefore, the argument advanced by the learned counsel for the petitioner based upon the judgment of the Supreme Court reported in AIR 2005(SC) 3066 (cited supra) has no application to the facts of the case. The petitioner's salary on reemployment was on the basis of his last pay drawn less pension. Actually as per the scheme of the State Government, a retired teacher is only a pensioner and his services are utilised till the end of the academic year on the promise that he will be paid his last



drawn wages minus his pension. This cannot be compared with the statutory rules framed by the Kerala State and the interpretation of those service rules by the Supreme Court.”

6. In view of the above findings of this Court which have become final, the petitioner is not entitled for the relief as sought for in the present Writ Petition. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

28.11.2023

Index : Yes/No
Speaking order: Yes/No
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Dr.D. NAGARJUN, J

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