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W.P.No.28328 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.28328 of 2021

P.Nelson

... Petitioner

Vs.

The Registrar,
Indian Institute of Technology-Madras,
Chennai-600 036.

...Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents to extend the financial benefit which was notionally fixed with effect from 01.07.1982. It is humbly prayed that in the light of the Hon'ble High Court's historic verdict that graciously allowed the W.P.3198 of 2017, it may please the Hon'ble High Court to pass such further order to restore the up-gradation of his pay scales granted by the 217th Board of Governors dated 19.07.2013 with all consequential financial benefits including back wages as requested in his representation to the respondent dated 25.05.2019.



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For Petitioner : Dr.D.K.V.Gangatharan

For Respondent : Mr.Karthik
Standing Counsel

ORDER

This writ petition has been filed directing the respondents to extend the financial benefit which was notionally fixed with effect from 01.07.1982 and to restore the up-gradation of his pay scales granted by the 217th Board of Governors dated 19.07.2013 with all consequential financial benefits including back wages as requested in his representation to the respondent dated 25.05.2019.

2. The case of the petitioner is that he was working in IIT (Madras), from the date of appointment on 15.05.1980, till his retirement on 31.03.2009 and his employment ID No.1042. He had done his job and performed his duties without any blemish. He was promoted on 24.08.1989 and at the time of promotion, he was wrongly designated as Attendant Grade I (SG) instead of Store Attendant Grade I, an administrative decision taken without giving an occasion to be heard. However, the petitioner carried out his duties as Store Attendant Grade I. Though, this was brought to the notice of the



officials concern, his designation was not changed. When the Vth Central Pay Commission Scale was implemented on 01.01.1996, he could not enjoy the benefits of pay scale as Store Attendant Grade I even though he discharged his duties in the above said post. This pay anomaly continued for a considerable period and on 24.08.1997, he was designated as Senior Attendant instead of Store Attendant Grade I (SG) under Review II under Recruitment Careers Development Scheme. Further, the third Financial up gradation from 01.09.2008, on completion of 10 years from the date of second review on Modified Assured Career Progression Scheme (MACPS) was also not implemented for him.

3. The learned counsel appearing for the petitioner submitted that he has carried out his duties as Store Attendant Grade I from 24.08.1989 and Store Attendant Grade I (SG) from 24.08.1997 with utmost integrity and unblemished service and due to the mistake in designation committed by the respondent he had lost a basic to the tune of Rs.1,55,415/- between the period of 24.08.1989 and 24.03.2009 and the incentives applicable to him. Despite various oral and written representations made by him from the beginning of



anomaly on 24.08.1989, no progress was made. Briefly to conclude and rectify the problem of anomaly, he filed writ petitions in W.P.Nos.2724 and 44581 of 2006 and W.A.514 of 2010, which were dismissed on latches without going into the merits of the case. Meanwhile, the anomaly in the petitioner's pay scale was removed by 217th Board of Governors meeting dated 19.07.2013 item 2.12 effected only in pension. The financial benefits and the arrear due, to the petitioner since 01.07.1982 as granted by 217th Board of Governors was not paid and the same may be paid to the petitioner expeditiously. Since the representations of the petitioner was not considered by the respondent and the decision taken by the 217th Board of Governors' meeting was not extended to the petitioner. Aggrieved by the same, the petitioner has come forward with the current writ petition.

4. The respondent has filed a counter affidavit dated 13.06.2023 and the relevant portions are extracted hereunder:

“Notwithstanding the above, the petitioner was repeatedly making representations to the respondent on the issue. Another employee (i.e) V Jyothi Ramalingam was also making representations with regard to his pay anomaly and



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the same was looked into by a grievance committee which in turn recommended rectification of the anomaly. The Board of Governors, on 19.07.2013 in its 217th meeting resolved to grant the higher scale of Rs. 260-430 to Mr V Jyothi Ramalingam notionally w.e.f. 01.07.1982 and with arrears from 19.07.2013. The said benefit was also extended to the petitioner on sympathetic consideration despite the fact that his writ petition and writ appeal for grant of the said scale of pay was dismissed. A consequential office order was also issued on 10.10.2013.

Thereafter the respondent received many representations from retired employees claiming to be seniors/colleagues of the petitioner and V Jothi Ramalingam and requested extension of similar benefits for them also. The BOG then constituted a sub-committee to reconsider the matter in the light of new claims made by others. The sub-committee found that the petitioner, V Jothi Tamalingam and other similarly place persons were not entitled to the grant of the higher pay w.e.f. 1.7.82 as per the conditions laid down for such grant contained in the BOG decision in its 113th Meeting dated 31.7.1987. The replacement scale offered was for employees in the scale of Rs.196-232 held by Helpers whereas the petitioner was drawing a higher scale of Rs 210-270 by virtue of RCDS assessment at that point in time. Accordingly it recommended to the BOG to withdraw the administrative decision taken in 2013 and that the benefits



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already granted to the petitioner may be treated as personal to him and also that no recovery may be made. The recommendations of the sub committee was accepted by the BOG in its 232nd meeting held on 15.3.2017. Accordingly an office order was issued on 16.10.2017”

5. The learned counsel appearing for the respondent drew the attention of this Court to the proceedings dated 15.05.2017 of the 232nd Board of meeting, withdrawal of replacement scale extended to Sri V Jothi Ramalingam, Sri P Nelson (petitioner) and Sri O Shanmugam and the office order dated 16.10.2017, withdrawing the replacement scale and financial up gradation. Thereafter by office order dated 16.10.2017, the replacement scale and financial up gradation was considered as erroneous and hence withdrawn. However, the fixation benefits already extended to him erroneously vide office orders are treated as purely personal and no recovery is ordered in terms of DOPT O.M.No.18/03/2015-Estt.(Pay-I) dated 02.03.2016.

6. Heard both sides and perused the materials available on record.



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7. In view of the above Board proceedings dated 15.05.2017 and office order dated 16.10.2017, withdrawing the replacement scale and financial up gradation extended to the petitioner as stated *supra*, the relief sought for in the writ petition cannot be granted by this Court.

8. As a result, this writ petition stands dismissed. No costs.

29.09.2023

Index : Yes/No
Speaking Order : Yes/No
vca/dpa

To:

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