



W.P.(MD)No.9828 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:07.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.9828 of 2020

W.M.P(MD).Nos.8819 to 8821 of 2020

- 1.V.Chokkalingam
- 2.V.Mahalingam
- 3.S.Manikandan
- 4.P.Panneer Selvam
- 5.G.Murugan
- 6.P.Santhanam

... Petitioners

Vs.

- 1.The State of Tamil Nadu,
Rep.by its Additional Chief Secretary to the Government,
Finance Department,
Fort St.George,
Chennai-9.
- 2.The State of Tamil Nadu,
Rep.by its Principal Secretary,
Higher Education Department,
Fort St.George,
Chennai-9.
- 3.Madurai Kamaraj University,
Rep.by its Vice Chancellor,
Palkalai Nagar,
Madurai-21.



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4. Madurai Kamaraj University,
Rep. by its Registrar,
Palkalai Nagar,
Madurai-21.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the impugned order in Letter No.4866/CMPC/2013-14 dated 22.01.2020 on the file of the Respondent No.1 as illegal in so far as reducing the scale of pay of the Drivers working in the 3rd Respondent University is concerned and for a direction, forbearing the Respondents from reducing the pay of the Petitioners in accordance with the Judgment of this Court in W.P.(MD).No.14965 of 2011 dated 08.10.2012 and the consequential syndicate resolution dated 09.01.2013 implementing the orders of this Court.

For Petitioner	: Mr.T.Aswin Rajasimman
For Respondents	: Mr.S.Saji Bino Special Government Pleader for R1 and R2 Mr.K.Ragatheesh Kumar for M/s.Isaac Chambers for R3 and R4



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ORDER

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This Writ Petition has been filed to call for the records pertaining to the impugned Letter No.4866/CMPC/2013-14 dated 22.01.2020, issued by the first respondent, quash the same as illegal insofar as reducing the scale of pay of the Drivers working in the third Respondent University is concerned and to forbear the respondents from reducing the pay of the petitioners in accordance with the order of this Court passed in W.P.(MD.).No.14965 of 2011, dated 08.10.2012 and the consequential Syndicate Resolution dated 09.01.2013, implementing the orders of this Court.

2. The case of the petitioners is that the petitioners were appointed as Drivers in the third respondent University. Relying upon the Government Order in G.O.(Ms).No.402, Higher Education (H2) Department, dated 13.12.2006 and the communication issued by the first respondent dated 11.03.2009, the respondents have attempted to reduce the scale of pay of the Drivers. Aggrieved by the same, the petitioners and other similarly placed persons have filed a writ petition in



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W.P(MD).No.14965 of 2011 before this Court challenging the said Government Order and the communication issued by the first respondent dated 11.03.2009. This Court, by order dated 08.10.2012, has allowed the said writ petition following the decision of this Court in W.PNo.49 of 2007 etc., dated 04.04.2012 and W.P(MD).No.10486 of 2009, dated 03.10.2012. Subsequent to the order passed by this Court, the Syndicate of the third respondent University has resolved to implement the said order in the meeting of the Syndicate, dated 09.01.2013 and the resolution was passed to that effect. Thereafter, the petitioners herein are getting the monthly salary without any grievance. While so, the fourth respondent has informed the petitioners that their scale of pay has to be reduced in view of the impugned order, dated 22.01.2020 issued by the first respondent. A perusal of the impugned order reveals that it has been passed in view of the judgment of the Hon'ble Supreme Court in the case of ***P.Singaravelan and others vs. District Collector, Tiruppur***, in C.A.Nos.9533 to 9537 of 2019 dated 18.12.2019, in which, the Hon'ble Supreme Court has issued a direction to the State Government to fix the pay scale benefits available to the respondents in that particular case in



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terms of Serial No.6 of Schedule II of the Rules, 1998. However, the said decision is not applicable to the petitioners. Based on the order passed by the first respondent, the respondent University is taking steps to reduce the scale of pay. Hence, challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioners would submit that similar issue came up for consideration in W.P(MD).No.9942 of 2020 before this Court and this Court, by order dated 20.01.2023, has granted liberty to the petitioners therein to make a representation before the second respondent University within a period of four weeks from the date of receipt of a copy of the order. Hence, the same liberty may be granted to the petitioners herein to make a representation before the respondent University.

4. The learned counsel appearing for the respondents 3 and 4 would submit that at the time of entertaining the present writ petition, this Court has issued a direction to the respondent University to take a



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decision in accordance with the University Law and Statute by referring the matter to the University Syndicate or any Executive Body. Accordingly, a Resolution was passed on 12.09.2020 adopting the Government Letter by revising the scale of pay, for which, a show cause notice has been issued to the petitioners. Instead of giving reply to the show cause notice, filing the present writ petition under Article 226 of the Constitution of India is not sustainable one.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents 3 and 4.

6. The facts in the present case are not in dispute. Admittedly, the respondents have attempted to reduce the scale of pay of the Drivers working in the fourth respondent University. Aggrieved by the same, the petitioner and other similarly placed persons have filed a writ petition in W.P(MD).No.14965 of 2011 before this Court and this Court has allowed the said writ petition on 08.10.2012, following the decision of this Court in W.P.No.49 of 2007 etc., dated 04.04.2012 and W.P(MD).No.10486 of



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2009, dated 03.10.2012. Thereafter, based on the directions issued by the Hon'ble Apex Court, the first respondent has issued the impugned order, dated 22.01.2020 to all the Departments including the fourth respondent University. In fact, on 20.01.2023, this Court, in W.P(MD).No.9942 of 2020 filed by the similarly situated persons, has granted liberty to the petitioners therein to make a representation before the second respondent University within a period of four weeks from the date of receipt of a copy of the order, if at all the University is going to take a decision by way of resolution.

7. However, in the present case, the respondent University has already taken a decision to implement the order dated, 22.01.2020. Hence, the relief sought for in the present writ petition by the petitioner cannot be granted. However, liberty is granted to the petitioner to challenge the order passed by the respondent University based on the impugned order, dated 22.01.2020.



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8. Accordingly, this Writ Petition is dismissed. No costs.

Connected miscellaneous petitions are closed.

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ssb

NCC:Yes/No

Index:Yes/No

Internet:Yes/No

To:

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Fort St.George,
Chennai-9.

2.The State of Tamil Nadu,
Rep.by its Principal Secretary,
Higher Education Department,
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Chennai-9.

3.Madurai Kamaraj University,
Rep.by its Vice Chancellor,
Palkalai Nagar,
Madurai-21.

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4.Madurai Kamaraj University,
Rep.by its Registrar,
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M.DHANDAPANI,J.

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