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W.P.No.2783 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P. No.2783 of 2020

A.T.Alagan

... Petitioner

Vs.

1. The Director,
Govt. Arignar Anna Memorial Cancer,
Research Institute, Kanchipuram,
Kanchipuram District.

2. The Director of Medical Education,
Kilpauk,
Chennai -600 010.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in Mu.Mu.No.523/Nee/2014, dated 16.12.2016 and to set aside the same and thereby directing the Respondents to pay the Petitioner the arrears of 5 percentage of Personal Pay at the rate of Rs.1186/- per month from 01.04.2010 apart from arrears from 21.09.1994 to 31.03.2010 as per G.O.Ms.No.143, Finance, dated 03.06.2014 and continue to pay the revised pension in future.

(Prayer amended vide orders dated 03.01.2024 made in W.M.P.No.5256 of 2020 n W.P.No.2783 of 2020)

For Petitioner : Mr.P.Chandrasekar

For Respondents : Mr.G.Ameeduis,
Government Advocate



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ORDER

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2. Mr.P.Chandrasekar, learned counsel for the petitioner submitted that while passing impugned orders, while allowing 5% on Special pay the 1st respondent has not taken into consideration of the revised pay order in G.O.Ms.No.143, Finance (Pay Cell) Department, dated 03.06.2014. According to the petitioner, had the pay been fixed as per G.O.Ms.No.143, Finance (Pay Cell) Department, dated 03.06.2014, 5% of personal pay has been higher than the pay already ordered through the impugned order.



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3. Mr.G.Ameeduis, learned Government Advocate appearing for the

Respondents filed a counter affidavit wherein it has been stated as under:

“7. I further submit that based on the wrong fixation of pay on three occasions, i.e. on 21.09.1994, 04.07.2001 & 14.10.2004 the petitioner's pay was fixed at Rs.15490+4600/- GP in the revised scale of pay of Rs.9300-34800 with Grade pay Rs.4600- w.e.f. 01.01.2006. At the time of his retirement on 31.03.2010, on attaining the age of superannuation he was drawing his pay at Rs.18030+Gr. Pay Rs.4600/- GP and this was taken into account for calculating his terminal benefits. But for the erroneous pay fixation in the time scales, on 21.09.1994, 04.07.2001 & 14.10.2004 as narrated in paras 4, 5 above, he would have drawn his pay at Rs.18340+Gr. pay of Rs.4300-.

8. I humbly submit that, the averment of the petitioner that the Director has refixed and reduced his pay from 21.09.1994 up to 31.03.2010 without considering the specific orders of the Government issued in G.O.MS.No.1227/finance (pension)Department dated 19.11.1985 wherein it was clearly instructed that "Check of correctness of past emoluments should in any case not go back to a period earlier than maximum 24 months", is totally false.



9. I submit that this petitioner Thiru, A.T. Alagan, in his letter dated 12.06.2014, informed that the Government, in G.O.MS. No.143/Finance(PC) Dept. dated 03.06.2014 has granted 5% personal pay to all the Steno Typists Grade III from 01.08.1992 and 01.09.1998 and requested to revise his pay and pay the difference of pay and allowances till his retirement. It is therefore clear that, he was granted 5% P.P. retrospectively from 01.08.1992 only as per the above G.O. and on his request. As such, there is no any violation of the Government, since the revision was not made suomoto. The revision became necessary due to granting of 5% Personal Pay retrospectively with effect from 01.08.1992 onwards.

10. I am to further submit that if the pay of an individual is revised retrospectively from the earlier date, the revision of pay upto date of retirement is mandatory. When the petitioner's pay revision is made now from 01.08.1992 to 31.03.2010, it was noticed that, even after granting personal pay from 01.08.1992, he has drawn higher pay than his eligible pay from 21.09.1994 and as such there is a loss to the Government exchequer due to grant of excess pay. Moreover, there is a provision that revision of pension Basic pay etc, becomes necessary on account of CLERICAL ERROR. In this case, error in the pay fixation was due to clerical error. The rectification order is under process. A sum of Rs.58711/- as



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arrears of personal pay of 5% as eligible was drawn and paid to the petitioner Thiru. A.T. Alagan on 28.02.2017 as per G.O.Ms.No.143 Finance (PC) Department dt.03.06.2014.

4. Despite the respondents have stated about the same recovery in excess pay, the prayer in the Writ Petition fringes upon the revised personal pay and not anything else. If the petitioner is found to be eligible to get the revised pay at a higher level in pursuant to G.O.Ms.No.143, Finance (Pay Cell) Department, dated 03.06.2014, the same can be considered by the respondents and shall pass fresh orders.

5. With the above observation, this Writ Petition is disposed of. No costs.

15.02.2024

Index: Yes / No
Speaking order / Non-speaking order
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R.N.MANJULA ,J.

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To:

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Govt. Arignar Anna Memorial Cancer,
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Kanchipuram District.
2. The Director of Medical Education,
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