



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.30720 of 2015
and M.P.Nos.1 & 2 of 2015
and W.M.P.No.236 of 2019

Dr.S.P.Vendan

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Petitioner

versus

- 1.The State of Tamil Nadu,
Rep. by Secretary to Government,
Higher Education (C2) Department,
Fort St.George, Secretariat,
Chennai - 600 009.
- 2.The Director of Technical Education,
Directorate of Technical Education,
Guindy, Chennai - 600 025.
- 3.The Commissioner of Technical Education,
Guindy, Chennai - 600 025.
- 4.The Principal,
PSG College of Technology,
Coimbatore - 641 004.

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Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the 4th respondent herein dated 07.09.2015 under Ref.No.N/1177/1991 and quash the same.



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For Petitioner : Mr.P.Ebenezer Paul
For Respondent Nos.1 to 3 : Mr.C.Jayaprakash
Government Advocate
For Respondent No.4 : No Appearance

ORDER

The writ petition is filed challenging the orders of the fourth respondent dated 17.09.2015.

2. The petitioner was appointed as Lecturer (OG) in the fourth respondent College on 15.07.1991 and he was re-designated as Associate Professor in the Department of Mechanical Engineering on 30.10.2006. The petitioner had completed Ph.D. Degree on 14.03.2007 and as per the incentive scheme of the Government, the Associate Professor acquiring the Ph.D. qualification is entitled for two increments. Therefore, in view of the completion of Ph.D. degree, the petitioner was awarded two increments on 15.03.2007 as per the pay scale in vogue at that point of time as per the 5th Pay Commission.



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3. Later, when the 6th Pay Commission was implemented, the revised increments were directed to be given effect to from 01.09.2008 and as such, the first respondent by G.O.(Ms.)No.95, dated 05.05.2010 directed to revise the pay. Further, it was clarified by the first respondent *vide* letter dated 03.08.2010 that the incentive increments in the revised scale can be sanctioned only for those who obtained degrees on or after 01.01.2006.

4. However, based on the instructions issued by the Commissioner on Technical Education and Director of Technical Education dated 13.08.2014 and 22.08.2015, the fourth respondent by the impugned order dated 07.09.2015 had withdrawn the advance increment benefits given to the petitioner. Assailing the same, the petitioner had preferred the above writ petition.

5. When the writ petition is taken up for hearing, the learned counsel appearing for the petitioner relying on the order dated 21.10.2004 passed in W.P.No.30447 of 2015 contended that in so far as the similar orders passed by the fourth respondent, the writ petition was allowed and



thereby the impugned order was set aside. He further submitted that the present writ petition also may be disposed of on the similar lines.

6. The learned Government Advocate for the respondents 1 to 3 fairly submits that he does not have any objections for passing orders on the similar lines, by giving liberty to the respondents to take appropriate action in accordance with law.

7. The relevant paragraphs of the above said order are extracted hereunder:-

“2. A perusal of the impugned proceedings indicates that the benefit of advance increment that were awarded in favour of the petitioner was withdrawn by the 4th respondent, without affording any opportunity to the petitioner, in gross violation of the principles of natural justice. This Court, while entertaining the writ petition, having taken note of the violation of the principles of natural justice, granted interim stay and by virtue of the interim stay granted by this Court by an order dated 28.09.2015, the petitioner has been drawing advance increment and the impugned order has not been given effect to as on date.

3. Though the respondents 2 and 3 filed their counter affidavit, no counter affidavit is filed on behalf of the 4th respondent. As the 4th respondent is only stated to have been acting at the instance of respondents 3 and 4, the 4th respondent, under any circumstances ought to have afforded an opportunity to the petitioner before passing the



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impugned order, to explain as to why the said increment should not be withdrawn. But the same is lacking in the instant case.

4. In the circumstances, impugned order dated 07.09.2015 is liable to be set aside solely on the ground of violation of principles of natural justice. Accordingly, impugned order dated 07.09.2015 is set aside.

5. Accordingly, the writ petition is allowed. However, it is open for the respondents to take appropriate action if they so desire in accordance with law. In case, if the petitioner is aggrieved over all the instructions issued by the respondents 2 and 3 or the orders to be passed by the 4th respondent, the petitioner is at liberty to take appropriate steps in accordance with law. It is made clear that this Court has not made any adjudication of the case on its merits. Consequently, the connected miscellaneous petitions, if any, shall stand closed. No costs.”

8. In the instant case also, since the impugned order dated 07.09.2015 has been passed without affording any opportunity to the petitioner, the impugned order in the writ petition is set aside for violation of principles of natural justice.

9. Accordingly, the Writ Petition stands ***allowed*** and the impugned order dated 07.09.2015 passed by the fourth respondent is aside. It is open to the respondents to take appropriate action if they so desire in



accordance with law. Consequently, connected Miscellaneous Petitions are closed.

10. There shall be no order as to costs.

13.11.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To
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G.ARUL MURUGAN, J.

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