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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2024

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THE HONOURABLE DR.JUSTICE BATTU DEVANAND

Writ Petition No.16000 of 2018

A.Lakshmana Pillai

..Petitioner

vs.

1.The Principal Accountant General,
Office of the Accountant General,
Teynampet,
Chennai-18

2.The Joint Director of Collegiate Education,
Tirunelveli Region, Tirunelveli-7

3.The District Treasury,
Nagercoil.

4.The Secretary,
S.T.Hindu College, Nagercoil.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the respondents 1 and 3 to disburse the revised pension of Rs.8,415/- and gratuity of Rs.3,93,902/- as per the proceedings of the second respondent in Rc.No.14486/E1/2012 dated 13.12.2012 from 01.03.2011 with interest @ 9% per annum till the date of payment.



For Petitioner : Ms.S.Nandhini Devi
For Respondents : Ms.Hema Murali Krishnan,
St.counsel for R1
Mr.R.Neethiperumal, GA for R2
Mr.V.Jeeva Giridharan, AGP for R3

ORDER

This Writ Petition has been filed seeking for issuance of a Mandamus, to direct the respondents 1 and 3 to disburse the revised pension of Rs.8,415/- and gratuity of Rs.3,93,902/- as per the proceedings of the second respondent in Rc.No.14486/E1/2012 dated 13.12.2012 from 01.03.2011 with interest @ 9% per annum till the date of payment.

2. The learned Government Advocate appearing for the second respondent submits that as per the proceedings of the second respondent dated 13.12.2012, the petitioner is not entitled for the relief as sought in this Writ Petition. To substantiate his argument, learned Government Advocate has placed reliance of the order of this Court dated 08.12.2020 passed in WP (MD) No.16379 of 2014 and etc., batch. The relevant portions of the said order at paragraph nos.17 & 18 are extracted herein under:

“17.The learned counsel for the petitioners made



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a submission that some of the juniors to the petitioners are getting more pay, than that of the petitioners. It is needless to state that Fundamental Rule stipulates that if any junior is getting more pay, the senior can submit an application for grant of equivalent pay on par with the junior by following the procedures contemplated under the Fundamental Rules. In this regard, a comparative statement is to be filed and the authority competent have to follow the Rules in this regard. Thus, any of the petitioners are aggrieved on account of the fact that their juniors are getting more pay, then they are at liberty to approach the competent authority for the purpose of enhancement of their pay on par with their juniors.

“18.However, this cannot be a ground to assail the impugned orders now passed. The impugned orders are passed in accordance with the Government Order regarding the fixation of Scale of Pay and there is no infirmity as such. The petitioners are not entitled to claim the Scale of Pay or the Grade Pay attached to the post of Selection Grade or Special Grade Laboratory Assistants as they were already promoted and are getting the Scale of Pay attached to the promoted post. This being the factum established, the writ petitioners are not entitled for the relief as such



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sought for in these writ petitions.”

3.The learned counsel for the petitioner has fairly submitted that in view of the present legal position, the petitioner is not entitled for the relief as sought in this Writ Petition.

4.On perusal of the order referred to supra, the Writ Petitioner is not entitled for the relief as such sought for in this Writ Petition. However, at para no.19 of the order dated 08.12.2020 cited supra, it is made clear that if any of the petitioners therein were already retired from service and he is a pensioner, the recovery cannot be imposed from their pension or pensionary benefits.

5.In the present case also admittedly, the petitioner retired from service and now he is a pensioner and as such, the relief granted by this Court in the order cited supra, can be granted to the petitioner herein also.

6.Accordingly, it is made clear that recovery cannot be imposed from the pension or pensionary benefits of the petitioner.



WEB COPY 7. In view of the above, this Writ Petition is dismissed.

No costs.

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Index : Yes/No

Speaking order: Yes/No
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To

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BATTU DEVANAND, J

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