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Writ Petition No.17004 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2024

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THE HONOURABLE MR. JUSTICE BATTU DEVANAND

Writ Petition No.17004 of 2018

K.Shanmugakani

..Petitioner

vs.

1.State of Tamilnadu,
rep. by its Secretary to Government,
Department of Law,
Secretariat,
Chennai-600 009

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent pertaining to G.O.Ms.No.134, Law Department dated 22.05.2009 in so far as it relates to not fixing the pay of the part-time Lecturer including the petitioner in the pay scale and the order of the respondent made in no.917/Se/Tha/Saka/2010 dated 29.02.2012 and quash the same and direct the respondent to revise and refix the pay of the petitioner in accordance with the 6th Pay Commission recommendations i.e., the pay recommended equitable to Rs.5500+174-9000 as in the pay band of Rs.10230+4400 grade pay with effect from 01.01.2006 and pay the arrears of pay and allowance to the petitioner.



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For Petitioner : R.Malaichamy
For Respondent : Mr.L.S.M.Hasan Fizal, AGP

ORDER

This Writ Petition has been filed seeking for issuance of a Certiorarified Mandamus, to call for the records of the respondent pertaining to G.O.Ms.No.134, Law Department dated 22.05.2009 in so far as it relates to not fixing the pay of the part-time Lecturers including the petitioner in the pay scale and the order of the respondent made in no.917/Se/Tha/Saka/2010 dated 29.02.2012 and quash the same and direct the respondent to revise and re-fix the pay of the petitioner in accordance with the 6th Pay Commission recommendations i.e., the pay recommended equitable to Rs.5500+174-9000 as in the pay band of Rs.10230+4400 grade pay with effect from 01.01.2006 and pay the arrears of pay and allowance to the petitioner.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent and perused the records.



3.The case of the petitioner is that he was initially appointed as a Part-time Lecturer at Dr. Ambedkar Government Law College, Chennai against a permanent vacant post on contract basis since 1988-89. He retired on attaining the age of superannuation in 2009. At the time of initial appointment in the year 1988, he was paid Rs.1740/- per month as salary on consolidated basis. As per 5th Pay Commission recommendations, the respondent issued G.O.Ms.No.111, Higher Education(H1) Department dated 24.03.1999, wherein, the pay was revised and re-fixed at Rs.5500/- per month. Thereafter, the pay has been enhanced to Rs.10,000/- vide DLS letter dated 20.01.2010. In the meanwhile, the Pay Review Committee has made recommendations for revision of pay scales for the Teachers and other Staffs vide Press Note dated 03.10.2008. Accordingly, the petitioner is entitled for pay scale not less than Rs.25,000/- per month as per University Grants Commission scales. Thereafter, the petitioner made a representation to the respondent, requesting to implement the Pay Review Committee recommendations and to revise and re-fix his pay accordingly with effect from 01.01.2006 and also to pay the arrears of pay and allowances. Later, the petitioner again made representations dated 23.07.2010 & 28.08.2017 to the respondent in this regard. However, the same have not been considered



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by the respondent. Aggrieved by the in-action of the respondent in considering his representations, the present Writ Petition is filed.

4.The learned counsel for the petitioner has submitted that during the pendency of the Writ Petition, the respondent has considered the representations of the similarly situated persons in the light of the orders of this Court in W.A.No.754 of 2011 and Batch and issued G.O.Ms.No.354, Law (LS), dated 22.06.2023. The learned counsel contended that in the said Government Order, the respondent has decided to comply with the orders of the Division Bench of this Court and accordingly regularised the service of the individuals in the post of Part-time Lecturer who were appointed during the academic year 1988-89. The learned counsel further contends that consequent to their regularization, the pay of Part-time Lecturers was regulated in the corresponding scale of pay from 01.01.2006 onwards. The learned counsel would submit that the petitioner is also similarly situated person against whose favour the said G.O.Ms.No.354, Law(LS), dated 22.06.2023 was issued and hence, he sought a direction of this Court to consider the representation of the petitioner dated 28.08.2017 in terms of G.O.Ms.No.354, Law(LS), dated 22.06.2023. The learned counsel has also



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placed reliance on the order of this Court dated 12.12.2023 passed in W. P. No.33578 of 2023 contending that in an identical circumstances, this Court disposed of the said Writ Petition, directing the respondents to consider the representation of the petitioner therein and pass appropriate orders on merits and in accordance with law. The relevant portion of the said order is extracted hereunder:

“6. On a perusal of the records, it is seen that as per G.O.Ms.No.354, Law (LS) Department dated 22.06.2023, the services of similarly placed persons have been regularised. Considering the submission of the learned counsel for the petitioner, without going into the merits of the case, the respondents are directed to consider the representation of the petitioner dated 26.08.2023 and pass appropriate orders on merits and in accordance with law within a period of sixteen weeks from the date of receipt of copy of this order.”

5.The learned Additional Government Pleader would submit that the representation of the petitioner will be considered within the time to be stipulated by this Court in accordance with law.



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6. Having heard the respective learned counsel and on perusal of the material available on record, this Court is of the considered opinion that it is reasonable and appropriate to dispose of the Writ Petition without going into the merits of the case, with a direction to the respondent to consider the representation of the petitioner dated 28.08.2017 in accordance with law and pass appropriate orders in terms of G.O.Ms.No.354, Law(LS), dated 22.06.2023.

7. Accordingly, this Writ Petition is disposed of, with a direction to the respondent to consider the representation of the petitioner dated 28.08.2017 in terms of G.O.Ms.No.354, Law (LS), dated 22.06.2023, wherein, the services of the similarly placed persons have been regularized and pass appropriate orders on merits within a period of four weeks from the date of receipt of a copy of this order. No costs.

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Index : Yes/No
Speaking order: Yes/No
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To
1.State of Tamilnadu,
rep. by its Secretary to Government,
Department of Law,
Secretariat,
Chennai-600 009



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BATTU DEVANAND, J

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