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W.P.No.26265 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2024

CORAM :

**THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER
KUMAR**

W.P.No.26265 of 2014

and

M.P.Nos1 to 3 of 2014

K.Namasivayam

Vs.

... Petitioner

- 1.The Government of Tamil Nadu,
Rep.by the Secretary,
Higher Education (G2 Department),
Secretariat, Chennai - 9.
2. The Director of Collegiate Education,
College Road, Chennai - 6.
3. The Joint Director of Collegiate Education,
Vellore Region,
Vellore- 632 006.
4. The Secretary,
C.Abdul Hakeem College,
Melvisharam,
Vellore - 632 509.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying for issuance of Writ of Certiorarified Mandamus calling for records



W.P.No.26265 of 2014

pertaining to the letter No.4867/G2/2014-2 dated 05.06.2014 issued by the 1st respondent and consequential proceedings in Na.Ka.No.15641/B2/2011 dated 22.07.2014 issued by the 2nd respondent, quash the same and direct the respondents to continue to pay the scale of pay of Rs.9300-34800+grade pay of Rs.4400 as on 01.01.2006.

For Petitioner : Mr.R.Subramanian
For Respondents : Mr.C.Jayaprakash,
Government Advocate

ORDER

When the matter is taken up for consideration, it is brought to the notice of this Court by the counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents that the issue that arise for consideration in this Writ Petition has already been considered by a learned Division/Single Bench of this Court and W.P.s have dismissed with certain observations in W.P.No.21787 of 2014 and W.P.No.16379 of 2018 and batch, by orders dated 05.07.2022 and 08.12.2020 respectively, and the copies of the said orders are also placed before this Court.



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2. The learned Division/Single bench of this Court while disposing W.P.(MD)Nos.16379 of 2018 and batch by order dated 08.12.2020 passed the following order:-

"17. The learned counsel for the petitioners made 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 Rules 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 sought for in these writ petitions.

19. Accordingly, all these writ petitions stand dismissed. It is made clear that if any of the petitioners are already retired from service and is a pensioner, then, recovery cannot be imposed from their pension or



W.P.No.26265 of 2014

pensionary benefits. No costs. Consequently, connected miscellaneous petitions are closed."

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3. In the light of the above, the claim of the petitioner as made in this writ petition is also liable to be rejected upholding the impugned order dated 05.06.2014. However, in view of the fact that the petitioner has already retired from service, the benefit of Para 19 of the order passed in W.P.(MD)No.16379 of 2018 and batch is equally applicable to the petitioner herein and accordingly, it is made clear that if the petitioner herein is already retired from service and is a pensioner, then, no recovery can be effected from the pension or pensionary benefits.

4. With these observations, this Writ Petition is dismissed. No costs. Consequently, connected M.Ps are closed.

04.12.2024

Index : Yes/No
Speaking Order : Yes/No
nvi

To:

Page No.4 of 6



W.P.No.26265 of 2014

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MUMMINENI SUDHEER KUMAR,J.



WEB COPY



W.P.No.26265 of 2014

nvi

W.P.No.26265 of 2014 and
M.P.Nos1 to 3 of 2014

04.12.2024