



W.P.Nos.20408 & 20409 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2024

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THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.20408 & 20409 of 2024

Dr.Vijayalakshmi Thanasekaran Petitioner in
W.P.No.20408 of 2024

Dr.SMT.Madhanika Madhavan Petitioner in
W.P.No.20409 of 2024

Vs

1. The Additional Chief Secretary to Government
Health & Family Welfare (A1) Department,
Fort St.George, Chennai – 600 009.

2. The Principal Secretary to Government,
Finance (PC) Department,
Fort St.George, Chennai – 600 009.

3. The Director of Medical Education,
Kilpauk, Chennai – 600 010. Respondents in both W.Ps

Common Prayer:- Writ Petitions filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the respondents to dispose of the representation for withdrawal the show cause notice dated 23.05.2020 and extend the benefits of G.O.Ms.No.236, Finance (PC) Department dated 12.07.2018 to the similarly placed persons who were



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drawing a scale of pay of Rs.10,000/- at the time of retirement, based on year of service and not on scale of pay.

In all W.Ps

For Petitioner : Mr.S.Ravichandran

For Respondents : Mrs.M.Sneha

Special Counsel for Health Department

COMMON ORDER

These Writ Petitions have been filed for direction, directing the respondents to dispose of the representation seeking to withdraw the show cause notice dated 23.05.2020 and extend the benefits of G.O.Ms.No.236, Finance (PC) Department dated 12.07.2018 to the similarly placed persons who were drawing a scale of Rs.10,000/- at the time of retirement.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. Similar batch of writ petitions in W.P.Nos.7905 of 2020 etc batch, have been disposed of by this Court by an order dated 12.12.2023 and thereby directed the petitioners to submit their representation and the same may be considered in view of the observation



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made by this Court. While disposing the batch of writ petitions, this

Court observed as follows :

“14. Normally the Show Cause Notice is a nascent stage and without exhausting the opportunity given under Show Cause Notice, the petitioners cannot challenge its legality. However, in exceptional circumstances, if the Show Cause Notice in the opinion of a prudent person is just a conveyance of the decision already made by the Government and his representation is not going to serve any purpose, such Show Cause Notice cannot be considered as notice issued for complying a fair procedure or on the pedestal of principles of natural justice. Without going into the merits of the matter and also taking into consideration of the delay already involved in settling the position about the continuation of implementation of G.O.Ms.No.236, Finance Department, dated 12.07.2018, this Court is of the view that it is appropriate for the Government to consider the representations of the petitioners without being influenced by its reasoning or observations made under Paragraph Nos.4, 5 and 6 of the impugned Show Cause Notice and to look into the representations afresh with open mind and also by



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examining the issue in the light of Rule 56 of the Tamil Nadu Pension Rules and any other legal precedents on these point and then pass orders. Setting aside the Show Cause Notice will only result in issuance of fresh Show Cause Notice and that will cause further delay.

15.Since the main grievance of the petitioners is with regard to the matters stated under Paragraph Nos.4, 5 and 6 of the impugned Show Cause Notice, this Court is of the view that part of the Show Cause Notice alone can be set aside by granting liberty to the petitioners and all similarly placed persons to make their representations to the Government and on receipt of the same, the Government shall consider the representations in the light of the observations already made and uninfluenced by the contents of Paragraph Nos.4, 5 and 6 of the impugned Show Cause Notice and shall pass orders.

16. In view of the same, Type-I petitioners and other similarly placed persons are given with a liberty to make their representations afresh within a period of three weeks from the date of receipt of a copy of this order and on receipt of the same, the respondents shall consider their representations in the light of the above observations and shall pass a speaking order, within a



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period of twelve weeks from the date of receipt of the representations from the petitioners.

17. Insofar as Type II petitioners are concerned, they have filed the writ petitions seeking for a direction to the respondents to consider them also to be placed under the ambit of G.O.Ms.No.236, Finance Department, dated 12.07.2018. So it can only be said that their eligibility or entitlement can be decided by the Government only consequent to the orders that would be passed in respect of the entitlement of other petitioners for continuing to get the benefit of G.O.Ms.No.236, Finance Department, dated 12.07.2018. So, the respondents shall consider and pass orders as to the entitlement of these petitioners depending upon the outcome of the orders that is going to be passed as per the earlier directions.

18. Insofar as W.P.Nos.11938, 11940 and 11941 of 2020 are concerned, the impugned orders have been passed without application of mind and the order itself is a non-speaking one and hence, the same is liable to be set aside and the respondents shall pass a fresh order in respect of these petitioners by taking into consideration of the continuation of G.O.Ms.No.236, Finance Department, dated 12.07.2018 without any hurdle.”



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4. In view of the above order, the petitioner is directed to submit representation before the first respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the first respondent is directed to consider the same in the light of the Judgment passed by this Court in a batch of writ petitions in W.P.Nos.7905 of 2020 etc batch, dated 12.12.2023.

5. With the above direction, these writ petitions stand disposed of. No costs.

25.07.2024

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
Lpp

To

1. The Additional Chief Secretary to Government
Health & Family Welfare (A1) Department,
Fort St.George, Chennai – 600 009.

2. The Principal Secretary to Government,
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3. The Director of Medical Education,
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