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W.P.No.26232 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.26232 of 2023
and W.M.P.Nos.25631 & 25632 of 2023

S.Zaheeruddin

.. Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Higher Education Department,
Fort St. George, Chennai – 600 009.
 2. The Director of Technical Education,
Directorate of Technical Education,
No.53, Sardar Patel Road,
Chennai – 600 025.
 3. The Principal,
Periyar Centenary Polytechnic College,
Periyar Nagar,
Vallam, Thanjavur District – 613 403.
 4. The Principal Accountant General (A& E)
Rep. by its Branch Manager,
No.361 Anna Salai,
Teynampet, Chennai – 600 018.
 5. The Assistant Treasury Officer,
Sub-Treasury Office,
No.M265 + 64R, Palaghat,
Pollachi – 642 001
- .. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus to call for the records of the proceedings of the 1st respondent having Ref.No.37303/C4/2018-2 dated 17.06.2020 and the consequential order of the 4th respondent having reference No.AG/(A&E)/PENP22/12226717/1/R2303192 dated 31.07.2023 and quash the same insofar as the said order dated 17.06.2020 has denied AGP 9000 to the petitioner and the basic pension amount has been reduced from 26,910/- to 19,500/- by the 4th respondent pursuant to the order dated 17.06.2020 passed by the 1st respondent and consequently direct the respondents to fix the petitioner in Pay Band IV in the pay scale of Rs.37400-R2.67000/+AGP Rs.9000 on 01.07.2006 with applicable monetary benefits.

For Petitioner : Ms.C.Uma
For Respondents : Mr.P.Muthukumar
Addl. Advocate General
assisted by
Mr.R.Kumaravel, AGP
[R1, R2 & R5]

ORDER

This Writ Petition has been filed to call for the records of the 1st respondent having Ref.No.37303/C4/2018-2 dated 17.06.2020 and the consequential order of the 4th respondent having reference No.AG/(A&E)/PENP22/12226717/1/R2303192 dated 31.07.2023 and quash the same insofar as the said order dated 17.06.2020 has denied



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AGP 9000 to the petitioner and the basic pension amount has been reduced from 26,910/- to 19,500/- by the 4th respondent pursuant to the order dated 17.06.2020 passed by the 1st respondent and consequently direct the respondents to fix the petitioner in Pay Band IV in the pay scale of Rs.37400-R2.67000/+AGP Rs.9000 on 01.07.2006 with applicable monetary benefits..

2.When the matter came up for hearing today, *Ms.C.Uma*, learned Counsel appearing on behalf of the petitioners and *Mr.Muthukumar*, Additional Advocate General appearing on behalf of the respondents 1,2 and 5 would state that the matter is no longer *res integra* and is covered by the dictum laid down by this Court in W.P.Nos.7135 of 2020 etc., Batch dated 06.03.2024.

3.The Co-ordinate Bench of this Court while dealing with the same issue, in paragraph Nos.31,32 and 33 held as follows:-

“31. In view of the above discussions, it is needless to state that the eligibility criteria contemplated under G.O.(Ms).No.111, dated 25.05.2010 is applicable for those persons who attained the qualification on or from 05.03.2010 and not any time earlier. In fact, G.O.(Ms.)No.563, dated 31.12.2004 itself it has been made clear that the existing CAS as ordered in G.O.(Ms.)No.1081, dated 19.08.1989 would continue without any break till such time the general pay revision is taken up by the pay commission.



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32. The next Government Order revising the qualification criteria has been issued only in the year 2010 vide G.O.(Ms).No.111, Higher Education (C2) Department, dated 25.05.2010. Hence, G.O.(Ms).No.111, dated 25.05.2010 would prescribe certain eligibility criteria apart from the educational qualifications for getting AGP at every level. So the petitioners who have filed these Writ Petitions have to check whether their eligibility to get CAS as per the earlier G.O.(Ms.)No.1081, dated 19.08.1989 before the cut-off date i.e. 05.03.2010.

33. In most of the cases, the petitioners who have retired from service are said to have attained their eligibility to move to AGP 9000 as on 01.01.2009. Or in other words, the petitioners, who reached AGP in the post of Selection Grade Lecturer as on 01.01.2006 in the AGP 8000 is eligible to move to AGP 9000 on completing 3 years of service from 01.01.2006. So their eligibility to move AGP 9000 will be on and from 01.01.2009. Obviously, the eligibility criteria contemplated under G.O.(Ms).No.111, dated 25.05.2010 r/w Regulations, 2012 cannot be made applicable to their cases.”

4.Finally, the relief in respect of current petitioner is granted in paragraph No.42 and the operative portion in paragraph No.43 are extracted below:-

“42. So on the background of the above discussions, the following conclusions are arrived:-

i. *G.O.(Ms).No.111, dated 25.05.2010 is applicable in respect of CAS, only for those persons who had attained the eligibility criteria on and from 25.05.2010 and not any time before and no retrospective effect be given to the above said Government Order.*

ii. *Even though the AICTE Regulations, 2012 states about an earlier date i.e. 05.03.2010, its applicability can be taken into effect only from the date of the Government Order and not from 05.03.2010.*

iii. *Even if the Training and Publication norms as prescribed under G.O.(Ms).No.111, dated 25.05.2010 are not complied for those who attained the eligibility*



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on and from 25.05.2010, they will also be eligible to get CAS, if they are otherwise qualified as per G.O.(Ms).No.111, dated 25.05.2010. This has been clarified in the subsequent G.O.(Ms).No.58, dated 21.03.2018.

iv. For those persons, who have attained eligibility criteria before 25.05.2010 for getting CAS will only be governed under Regulations, 2010 r/w G.O.(Ms.)No.1081, dated 19.08.1989 and not G.O.(Ms).No.111, dated 25.05.2010.

43. The comparative statements in respect of each petitioner had been produced and the efforts taken in this regard by Mr.V.Arun, learned Additional Advocate General for the respondents 1 and 2 is appreciated. But the implementation of the CAS as per the above conclusions and issuing fresh orders by revisiting the orders under challenge after giving notice to the petitioners will be in the hands of the respondents. Hence the impugned orders are set aside and the respondents are directed to give notice to the petitioners within a period of two (2) weeks from the date of receipt of the order, in order to enable them to submit their individual representations within a period of four (4) weeks and to consider the same with or without forming a selection committee and issue fresh orders in terms of the above conclusions within a period of twelve (12) weeks from the date of receiving the individual representations. Had there been any recovery of amount already made in pursuant to the impugned orders, the same shall be refunded within a period of two (2) weeks. ”

5.In view thereof, this Writ Petition is disposed of on the same terms. No costs. Consequently connected miscellaneous petitions are closed.

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Index : Yes/No
Neutral Citation : Yes/No
Speaking order : Yes/No

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D.BHARATHA CHAKRAVARTHY, J.

mp

To

1.The Principal Secretary
State of Tamil Nadu
Department of Higher Education
Fort St.George, Chennai -9.

2.The Director of Technical Education
Office of the Directorate of Technical Education
53, Sardar Patel Road, Guindy
Chennai – 25.

3.The Assistant Treasury Officer,
Sub-Treasury Office,
No.M265 + 64R, Palaghat,
Pollachi – 642 001

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