



W.A. No.3006 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 14.11.2024

DELIVERED ON:20.11.2024

CORAM:

**THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
and**

THE HON'BLE MR.JUSTICE P.B.BALAJI

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and CMP. No.22551 of 2024

1. The Secretary to Government of Tamil Nadu,
Higher Education Department,
Fort St.George, Chennai – 600 009.

2.The Commissioner of Technical Education,
Directorate of technical Education,
Guindy, Chennai.

.. Appellants

Vs

Dr.R.Sambath

..Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to allow the Writ Appeal to set aside the order dated 14.02.2024 made in W.P. No.12953 of 2021.

For Appellant : Mr.J.Ravindran,



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Additional Advocate General
assisted by Mr.D.Ravichandran,
Special Government Pleader

For Respondents : Mr.V.Vijay Shankar

J U D G M E N T

(Judgment of the Court was made by MR.JUSTICE P.B.BALAJI, J.)

The State Government and the Commissioner of Technical Education, Directorate of Technical Education, Chennai aggrieved by the order passed by the Writ Court in W.P.No.12953 of 2021 dated 14.02.2024 preferred the above Writ Appeal.

2. The brief facts of the case:

The respondent/writ petitioner challenging the letter No.42356/A4/2018 dated 10.03.2021 and consequently, seeking a direction to extend the benefits of the revised pay scale along with the consequential career advancement to the respondent/writ petitioner in terms of G.O.(MS).No.95, Higher Education (C2) Department, dated 05.05.2010, with effect from respective date of entitlement, along with arrears and attendant benefits, moved the Writ Court by way of seeking a Writ of



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Certiorarified Mandamus.

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3. The Writ Court allowed the Writ Petition and directed to consider the petitioner's eligibility from the date of appointment as Physical Director from 29.02.2012. Aggrieved by the said order of the Writ Court, the respondents before the Writ Court, as appellants, have filed the instant intra Court Appeal.

4. We have heard Mr.J.Ravindran, learned Additional Advocate General assisted by Mr.D.Ravichandran, learned Special Government Pleader appearing for the Appellants and Mr.V.Vijay Shankar, learned counsel appearing for the Respondent.

5. The learned Additional Advocate General appearing for the appellants would submit that the Writ Court had failed to consider that G.O.(MS).No.62, Higher Education (C2) Department, dated 02.04.2018 is only a consequential order based on the AICTE notification in the year 2012 and failed to see that it was given effect only from 02.04.2018 and not from



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05.03.2010. The learned counsel would further submit that, the writ petitioner entered into teaching only on 29.02.2012 and therefore, he attained eligibility only on 29.02.2016, after a period of four years service and therefore, the respondent did not meet the eligibility criteria. The respondent's service as Physical Training Instructor cannot be counted in the category of Tamil Nadu Technical Educational Subordinate Service Non-Teaching (G.O (MS).No.220, Higher Education (B1) Department, dated 06.07.2000) and consequently, he was not eligible for AGP upward movement. The learned Additional Advocate General would therefore pray for the Writ Appeal being allowed.

6. Per contra, Mr.V.Vijayshankar would contend that even though the respondent/writ petitioner had prayed for AGP with notional effect, the writ petitioner had initially joined services as Physical Training Instructor in December 1994 and he worked in the same capacity till June 2010 and that from 01.07.2010, he was appointed as Physical Director Incharge and thereafter, with effect from February 2012, he was appointed as regular Physical Director. He would further submit that in terms of



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G.O.(MS).No.95, dated 05.05.2010, and G.O.(MS).No.62, dated 02.04.2018

pay scales of physical educational personnel were fixed and a CAS scheme was applied and implemented to several similarly placed employees in other technical institutions. However, in the respondent's case, the appellants did not take any action to upgrade the pay of the respondent under the CAS Scheme by counting his past services from the date of appointment.

7.The learned counsel would further submit that though the respondent was appointed way back in 1994 and subsequently, made the Physical Education Director in the year 2010, he has no promotional avenues open and non extension of the CAS benefits to the respondent/writ petitioner would cause irreparable loss and hardships to him, especially when adequate promotional opportunities have been denied to the respondent/writ petitioner. The learned counsel would therefore submit that even though the writ petitioner was entitled to benefits of revised pay scale along with consequential career advancement in terms of G.O.(MS).No.95, dated 05.05.2010, with effect from the effective dates of entitlement, along with arrears and academic benefits, the Writ Court taking note of the fact



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that the writ petitioner was willing to accept the higher pay scales from 29.02.2012 that is the date on which, he was appointed as Physical Director, allowed the Writ Petition.

8. Pointing out from the order of the learned single judge Mr.V.Vijayshankar would submit that the Writ Court has only granted what the appellant themselves have conceded and therefore, there is absolutely no merit in the Writ Appeal and consequently, he prayed for dismissal of the Writ Appeal.

9. We have carefully considered the submissions advanced by the learned counsel on either side.

10. Admittedly, the case of the appellants themselves even before the Writ Court and also in the memorandum of grounds of Writ Appeal clearly indicate that the respondent/writ petitioner having been appointed as Physical Director on 29.02.2012, he would be entitled for upgradation taking into account of the said date and the first upgradation, in terms of the AICTE



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Regulations 2012, that would fall on 29.02.2016. The Writ Court has accepted the said stand of the appellants and directed the appellants to re-do out the exercise and held that the respondent/writ petitioner was entitled for upgradation and career advancement taking into account of his appointment as Physical Director on 29.02.2012.

11. Even according to the stand of the appellants, the writ petitioner after completion of four years was eligible on 29.02.2016, for a pay scale of Rs.7,000/- in accordance with Clause 4(b)(ii) of G.O.(MS).No.95 dated 05.05.2010 and the Writ Court has further held that the benefit having been granted erroneously from 02.04.2018, has to be from 29.02.2016 and not 02.04.2018. Similarly, on 29.02.2021, after completion of 5 years, the respondent/ writ petitioner is entitled to move to Rs.8,000/- grade pay as per 4(c)(i) of Appendix I of G.O.(MS).No.95, dated 05.05.2010 and again on 29.02.2024, on completion of three years, the respondent/ writ petitioner is entitled to move to Rs.8,000/- grade pay as per 4(c)(ii) of Appendix I of G.O.(MS).No.95, dated 05.05.2010. The appellants do not dispute the said stand of the respondent/writ petitioner which has been culled out by the Writ



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Court and suitable directions have been issued to the appellants to comply with the same.

12. In view of the above, we do not find any merit in the Writ Appeal itself, especially when it is the categorical admission of the appellants themselves that the respondent/writ petitioner was eligible to be upgraded from 29.02.2016. The stand of the appellants that G.O.(MS).No.62, Higher Education (C2) Department, came into force only on 02.04.2018 and therefore, the respondent would be entitled to the first upgradation only from 02.04.2018 and not 29.02.2016 cannot be countenanced. The conditions (h) in the Career Advancement Scheme (CAS) provides for faculty achieving career advancement scheme norms after 08.11.2012, the academic grade pay for promotion being fixed notionally from the date of attaining of eligibility and with financial benefits from the date of issuance of the Government Order. However, G.O.(MS).No.62, dated 02.04.2018, Condition 3(e) clarifies the position. The same is extracted hereunder:

"3. (e) The faculty who have already achieved the CAS norms as specified in G.O.(Ms) No.95, Higher Education (C2) Department, Dated 5.5.2010, before the issue of AICTE Regulations on 8.11.2012, be given the Academic Grade Pay progression and monetary benefits from the date of attaining



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eligibility, since that Government Order has already been implemented and given effect to.

(f) G.O.(Ms)No.95, Higher Education (C2) Department, Dated 5.5.2010 states that AICTE Regulations shall become applicable for Career Advancement Scheme (CAS). Since, AICTE Regulations were issued on 8.11.2012, from this date onwards, faculty should fulfill training and publications norms as specified in the said Regulations."

13. Therefore, when the appellants themselves have clarified that the faculty who have achieved CAS norms before issuance of AICTE regulations on 08.11.2012 would be not only get academic grade pay progression but also monetary benefits from the date of attaining eligibility, they cannot take an exception in the case of the respondent/writ petitioner alone, when admittedly the Writ petitioner achieved CAS norms before 08.11.2012. Therefore, we do not find any merit in the arguments advanced by the learned Additional Advocate General. The Writ Court has rightly applied the relevant clauses in G.O.(MS).No.62, dated 02.04.2018 in holding that the respondent would be entitled to upgraded payment, by way of grade pay from 29.02.2016 and not 02.04.2018 as claimed by the appellants. We do not see any merit in the Writ Appeal and the order of the Writ Court does not warrant any interference.



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14. In fine, the Writ Appeal is dismissed. Consequently, connected

Miscellaneous Petition is also dismissed. There shall be no order as to costs.

(D.K.K.J.) (P.B.B.J.)

20.11.2024

Internet: Yes/No

Index : Yes/No

Speaking Order/Non Speaking Order

rkp

To

1. The Secretary to Government of Tamil Nadu,
Higher Education Department,
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2.The Commissioner of Technical Education,
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D. KRISHNAKUMAR. J.,
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Pre-delivery Judgment in
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