



WEB COPY

W.P.No.1487



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.04.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.14871 of 2017
and
W.M.P.No.16109 of 2017

G.Ragupathi

... Petitioner

Vs.

Pondicherry University,
Rep. by its Registrar Incharge,
R.V.Nagar, Kalapet, Puducherry – 605 014.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the concerned records from the respondent quash the office order no.39 bearing PU/ESTT/NT10/2016-2017/73 dated 05.06.2017 issued by the respondent as illegal, arbitrary, without power and authority and contrary to law and consequently direct the respondent to restore its Order No.50 dated 17.05.2016 bearing Ref.No.PU/ESTT/NT10/2016-17/27.

For Petitioner	: Mr.Balan Haridas
For Respondent	: Mr.M.Ravi

ORDER

The petitioner herein, who was initially appointed as Draftsman by direct recruitment in the year 1987 was promoted to various posts, finally to the post of Assistant Engineer by Officer Order No.443 dated 01.03.2016. Thereafter, the pay of the petitioner was fixed through Ref.No.PU/ESTT/NT10/2016-2017/27 dated



17.05.2016 in the Pay Band of Rs.9300-Rs.34,800/- with Grade Pay of Rs.5400/- with effect from 01.07.2016 under FR 22(I)(a)(1). However, subsequently through Office Order No. 272 dated 23.01.2017, the Pay of the petitioner was revised, reducing the Grade Pay of Rs.5400/- to Rs.4600/-. Aggrieved by the same, the petitioner approached this Court by filing W.P.No.2161 of 2017 and this Court by an order dated 02.03.2017 remanded the matter back on the ground of violation of principles of natural justice. Subsequently, the petitioner was served with the show-cause notice and on considering the explanation submitted by the petitioner, the impugned order dated 05.06.2017 came to be passed in Office Order No.39, reducing the Grade Pay of the petitioner from Rs.5400/- to Rs.4600/-. The basis for reducing the Grade Pay of the petitioner is the letter of the University Grants Commission bearing Letter No.F38-1/99(CU/JCRC) dated 29.10.2010, wherein all the Central Universities and UGC maintained (deemed to be Universities) were informed to place the Assistant Engineers in Central Universities and UGC maintained (deemed to be Universities) in the revised scale pay of Rs.7450 - Rs.11,500/- and payment of corresponding Pay Band II and Grade Pay of Rs.4600/- with effect from 01.01.2006. Thereafter, there is further correspondence from the UGC requiring the respondent University to strictly follow the said communication dated 26.01.2010. It is only pursuant to the said communication by the UGC, the respondent University claims to have reduced the Grade Pay of the petitioner from



Rs.5400/- to Rs.4600/-.

2. The main grievance of the petitioner is that the pay of the petitioner herein, who was promoted to the post of Assistant Engineer (Civil) in the year 2016 was erroneously fixed at a lower level while allowing the similarly situated persons, who were also promoted to the post of Assistant Engineer (Civil) prior to the petitioner to draw the revised payscale of Rs.15,600 - Rs.39,100/- with Grade Pay of Rs.5400/-. But, the petitioner is not allowed to draw the very same scale while fixing the pay of the petitioner after his promotion to the post of Assistant Engineer. According to the petitioner, it is only the Grade Pay that was rightly fixed at Rs.5400/-, but the the Pay Band is fixed only Rs.9300 - Rs34,800/- erroneously. According to the learned counsel for the petitioner even the said Grade Pay, which was rightly fixed at Rs.5400/- is now sought to be reduced to Rs.4600/-, while allowing all other similarly situated persons, who were promoted to the post of Assistant Engineer to draw the Pay Band of Rs.15,600 - Rs.39,100/- with Grade Pay of Rs.5400/-. The pay slips of other Assistant Engineers viz., N.Sankaramourthy, Shri.K.Vadivel and Shri.V.Mourougavalou, who are drawing higher pay scale than the payscale of the petitioner and higher Grade Pay, are placed on record.

3. Thus, the main grievance of the petitioner is that the fixation of Pay Band on his promotion was fixed in the Pay Band of Rs.9300 – 34,800/-, though the



petitioner is entitled for the Pay Band of Rs.15,600 – Rs.39,100/-. The petitioner though claims to be entitled for fixation of pay in the Pay Band of Rs.15,600 - Rs.39,100/- with corresponding Grade Pay of Rs.5400/-, now the petitioner is agitating only against the reduction of the Grade Pay of Rs.5400/- to Rs.4600/-.

4. The respondent has filed counter-affidavit admitting the fact that payment of higher Pay Band of Rs.15,600 - Rs.39,100/- to the persons named by the petitioner, who are also working as Assistant Engineer (Civil) in the respondent University with Grade Pay of Rs.5400/-. The respondent University tried to justify the said action on the ground that the said three persons were appointed prior to the letter of UGC dated 29.10.2010, whereas the petitioner was promoted subsequently to the said letter.

5. This Court is unable to agree with the said contention of the respondent. If the similarly situated persons like the petitioner were promoted even prior to 29.10.2010, but after 01.01.2006, the petitioner and the said three persons cannot be treated as different classes. Further, the letter of the UGC dated 29.10.2010 is clear in saying that the same would come with effect on 01.01.2006 and therefore, there cannot be any discrimination among the above named three persons and the petitioner herein. But, for the reasons best known, the petitioner has not sought for



any relief for fixation of his Pay Band nor made any claim of his pay fixation in the said Pay Band after he was promoted to the post of Assistant Engineer (Civil). If the petitioner accepts the fixation of Pay Band at Rs.9300 - Rs.34,800/-, perhaps the corresponding Grade Pay may be Rs.4600/-. Unless the petitioner agitate for the fixation of his Pay Band at Rs.15,600 - Rs.39,100/- on par with other similarly situated persons, the petitioner may not be entitled to claim the Grade Pay of Rs.5400/-. Admittedly the pay of the petitioner was fixed in the Pay Band of Rs.9300 - Rs.34,800/-, while fixing his pay on the promotion to the post of Assistant Engineer (Civil). If that be the case, the grant of Grade Pay of Rs.5400/-, which is the corresponding Grade Pay attached to the Pay Band of Rs.9300 – Rs.34800/- may not arise. Perhaps for that reason only, the objection appears to have been raised by the UGC on the Grade Pay of Rs.5400/- awarded in favour of the petitioner. If that be the case, it is for the petitioner to agitate for the proper fixation of his pay on his promotion to the post of Assistant Engineer on par with other similarly situated persons.

6. Though it is contended in the counter-affidavit in Paragraph No.6 that appropriate action is being taken for rectifying the anomalies, no material is placed before this Court to substantiate such contention. Further, the counter-affidavit was filed along with vacate stay as early as on 09.12.2019 and as on date also, there



appears to be no action taken as contemplated at Paragraph No.6 of the counter-affidavit filed in the Writ Petition. When the persons similarly situated like the petitioner were allowed to draw higher pay band than the petitioner, it is not understandable as to how the petitioner could be deprived of the same. But unfortunately, as noted above, the petitioner has not sought any relief in respect of fixation of his Pay Band on par with other similarly situated persons. Under the circumstances, this Court is unable to find fault in the impugned action of the respondent.

7. In the considered view of this Court, it is a fit case where the respondent is required to reconsider the claim of the petitioner for fixation of his pay on his promotion to the post of Assistant Engineer and for fixation of his pay in the Pay Band of Rs.15,300 - Rs.39,100/- on par with other similarly situated persons and for grant of corresponding Grade Pay.

8. Accordingly, the Writ Petition is disposed of permitting the petitioner to submit a detailed representation making a claim for award of Pay Band of Rs.15,300 - Rs.39,100/- with Special Pay of Rs.5400/-, or otherwise as may be advised within a period of two weeks from the date of receipt of a copy of this order and on submission of such representation, the respondent shall consider the same and



extend the benefit of fixation of pay and Grade Pay on par with other similarly situated persons viz., N.Sankaramourthy, Shri.K.Vadivel and Shri.V.Mourougavalou and pass appropriate orders in accordance with law. It is further directed that, until a decision is taken on the representation submitted by the petitioner, the interim order dated 21.06.2017 already granted in this Writ Petition, staying the recovery of amounts from the petitioner shall be in operation. It is made clear that this Court has not expressed any view on the merits of the case.

9. Accordingly, the Writ Petition is disposed of. No costs. Connected Miscellaneous Petitions, if any shall stand closed.

04.04.2024

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

Pondicherry University,
Rep. by its Registrar Incharge,
R.V.Nagar, Kalapet,
Puducherry – 605 014.s



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MUMMINENI SUDHEER KUMAR, J.

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