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Writ Petition No.1381 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2024

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THE HONOURABLE MR. JUSTICE BATTU DEVANAND

Writ Petition No.1381 of 2019
& WMP.No.1540 of 2019

A.Sengathir

..Petitioner

vs.

1.The State of Tamilnadu,
rep. by its Secretary,
Department of Higher Education,
Secretariat,
Fort St George,
Chennai-600 009

2.The Registrar,
Anna University,
Chennai-600 025

3.The Director(UC),
Centre for Constituent Colleges,
Anna University, Sardar Patel Road,
Chennai-600 025

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the respondents to pay the petitioner's salary, emoluments and benefits as per the 6th Pay Commission recommendations from the date of joining i.e.,13.10.2008 FN



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and all resultant and consequential benefits and increments as already paid to other similarly placed persons.

For Petitioner : Ms.N.Kavitha Rameswar
For Respondents : Mr.C.Jayaprakash, GA for R1
Mr.V.Meenakshi Sundaram,
St.counsel for RR2, 3

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, to direct the respondents to pay the petitioner's salary, emoluments and benefits as per the 6th Pay Commission recommendations from the date of his joining i.e.,13.10.2008 FN and all resultant and consequential benefits and increments as already paid to other similarly placed persons.

2.The case of the petitioner is that as per the notification dated 09.07.2008 issued by the second respondent, calling for applications from the eligible candidates for various posts including for the post of Executive Assistant (Administration), the petitioner joined in the said post on 13.10.2008 FN vide order dated 30.09.2008. Thereafter, he has been



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continuously working in the second respondent Regional Campus at Coimbatore. Since salary was not paid to the petitioner as per the 6th Pay Commission recommendations from the date of his joining, he along with other similarly placed persons, represented their grievance to the second respondent. Pursuant to the same, it is reliably learnt that the second respondent took steps and constituted a Committee for redressing the grievances of the petitioner to implement the 6th Pay Commission recommendations. Some of the similarly situated persons are getting the salary as per the recommendations of the 6th Pay Commission for past 10 years as Executive Assistants, but no positive action has been initiated in the case of the petitioner by the second respondent. At this stage, the first respondent took a policy decision to merge all the 5 Anna Universities of Technology with the Anna University, Chennai. After merger, the petitioner now became the staff of the Anna University, Chennai. In order to oversee the process of merger of the various Universities of Technology with Anna University, Chennai, the Government appointed Monitoring Committee. Pursuant to the report of the Committee, the Vice -Chancellor constituted a Scrutiny Committee to streamline the process of absorption of teaching and non-teaching staff of the erstwhile Anna Universities of



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Technology in the Anna University, Chennai. At that stage, the Government has issued G.O.(RT) No.91, Higher Education (II) Department dated 14.07.2017, wherein, it is indicated that the University is examining the means of absorption of the staffs, who are appointed by the erstwhile 5 Anna Universities of Technology, now merged with the Anna University, Chennai.

3.The contention of the learned counsel for the petitioner is that the factum of merger is related only to the increments to be paid to the employees of the erstwhile Anna Universities of Technology and the salary according to the 7th Pay Commission. However, the 6th Pay Commission recommendations were of the year 2008 i.e., from the date of joining of the petitioner and the payment of the same is not in any way connected to the factum of merger which happened only in 01.08.2012. The learned counsel for the petitioner would submit that there is no reason to deny the said benefit to the petitioner and to other similarly placed persons, when the benefit was extended to the several others in the very same post of Executive Assistant (Administration).



4.The learned counsel for the petitioner further submits that when the petitioner along with others filed Writ Petitions before this Court in WP Nos.7140, 7143 of 2020 etc., batch seeking a direction to absorb the petitioners on permanent basis into Anna University service in the post of Executive Assistant (Administration) from the date of merger of erstwhile Anna Universities of Technology of Coimbatore with the Anna University by taking into consideration of the qualification of the petitioner with all consequential and other attendant benefits including revision of pay with reference to 6th Pay Commission and 7th Pay Commission recommendations within a time frame. The said Writ Petitions were allowed by this Court by common order dated 30.01.2024.

5.In view of the same, the learned counsel for the petitioner would submit that if the petitioner is permitted to submit a representation to the second respondent to consider his grievance, in the light of the order of this Court dated 30.01.2024 in WP Nos.7140, 7143 of 2020 etc batch, interest of justice would be met to the petitioner and accordingly, he sought to dispose the Writ Petition with a direction to the second respondent.



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6.The learned Government Advocate appearing for the first respondent and the learned Standing counsel appearing for the respondents 2 & 3 would also submit that if the petitioner intends to submit a representation to consider his grievance, in the light of the order of this Court dated 30.01.2024 in WP Nos.7140, 7143 of 2020 etc batch, the respondents will consider the same and pass appropriate orders, in accordance with law.

7.In view of the facts and circumstances of the case and on considering the submissions of the learned counsel on either side, it is appropriate and relevant to look into the directions issued by this Court by its order dated 30.01.2024 in WP Nos.7140, 7143 of 2020 etc batch, as extracted herein under:

“35. In view of the above stated reasons, these Writ Petitions are disposed and the report of the Five Member Committee, dated Nil, constituted by the Registrar of Anna University, Chennai, under G.O.Ms.No.91, Higher Education (II) Department dated 14.07.2017 is hereby quashed and the first respondent is directed :

(i) to issue orders to all those regular employees who have been working in the erstwhile unamalgamated Anna Universities of Technology for allotting them either to the amalgamated Anna



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University of Technology, other educational institutions or Government departments, depending on the vacancy position with continuity service and all other consequential and attendant benefits and in compliance of Section 33 (9)(a) & (b) of Chapter VIII of the Principal Act, by making due consultations with the stakeholders mentioned in the said provision, if necessary.

(ii) While doing so, if any difficulties or discrepancies are encountered due to any difference in giving the job title, appropriate orders for re-designation shall be issued with due pay protection.

(iii) If there are still more difficulties faced due to short of vacancies in the sanctioned posts, it is inevitable to create excess posts in order to get all those regular staffs of the erstwhile unamalgamated Universities reallocated as mandated under Section 33 (9)(a) & (b) of Chapter VIII of the Principal Act and hence the said process shall be done at the earliest as an one-time measure.

(iv) Such one-time measure shall also be made in respect of all those employees who have been appointed on ad-hoc basis and whose services have been utilised for all these years without any break, but still remain without regularisation.

It is obligatory on the part of the Government to take all appropriate steps to fulfil its own promise and formulate any scheme for creating new posts, issuing / re-issuing / consolidating of any of the existing Government Orders already issued with necessary amendments as an complete one-time measure and complete the transition process without allowing the employees to have unnecessary anxieties of their job security. All appropriate orders in the line of the above direction shall be passed within a period of eight weeks from the date of receipt of a copy of this



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order. No costs. Connected miscellaneous petitions are closed.”

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8. In fact, the petitioner herein is also one of the petitioner in the above said batch of Writ Petitions stated supra and hence, all the directions issued in the above said batch of Writ Petitions are applicable to the petitioner.

9. In view of the same, in our considered view, it is appropriate and reasonable to consider the request of the learned counsel for the petitioner to permit the petitioner to make a representation to the respondents in the light of the order of this Court dated 30.01.2024 in WP Nos.7140, 7143 of 2020 and etc batch, to meet the interest of justice.

10. Accordingly, this Writ Petition is disposed of, with the following directions:

(i) the petitioner is permitted to submit a fresh representation to the respondents, to consider the same in the light of the order of this Court dated 30.01.2024 passed in WP Nos.7140, 7143 of 2020 and etc batch.

(ii) On receipt of the said representation, the respondents shall consider the same and pass appropriate orders in accordance with law, in the



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light of the directions issued by this Court in WP Nos.7140, 7143 of 2020 and etc batch and communicate the decision taken to the petitioner within a period of eight weeks from the date of receipt of the representation.

No costs.

Consequently, connected miscellaneous petition is closed.

11.11.2024

Index : Yes/No
Speaking order: Yes/No
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To
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rep. by its Secretary,
Department of Higher Education,
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Chennai-600 009

2.The Registrar,
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BATTU DEVANAND, J

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