



W.P.(MD) No.17141 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.02.2024

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THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD)No.17141 of 2020

S.Sundaravalli

... Petitioner

Vs.

- 1.The Government of Tamilnadu
Represented by its Principal Secretary,
Department of Higher Education,
Fort St. George, Secretariat, Chennai 600 009.
- 2.Director of Collegiate Education,
Directorate of Collegiate Education,
9th Floor Evk Sambath Maligai, College Road,
Chennai 600 006
- 3.The Joint Director of Collegiate Education,
(Planning and Development),
9th Floor Evk Sampath Maligai, College Road,
Chennai 600 006
- 4.The Registrar,
Madurai Kamaraj University, Palkalai Nagar,
Madurai 625 021, Madurai District
- 5.M. Veluchamy,
Watchman, Government Arts and Science
College, Aundipatti-625 512, Theni District.
(R5 is Impleaded Vide Court Order
dated 28.03.2022 in WMP(MD).15306/2021 ... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.20790/P4/2019, dated 05.10.2019 on the file of the Respondent No.3 and quash the same as illegal and consequently to direct the Respondents to provide Special Time Scale of Pay to the petitioner within a stipulated time prescribed by this Court.

For Petitioner : Mr.S.Louis

For Respondents : Mr.V.Om Prakash
Government Advocate for R1 to R3

: No appearance for R4 & R5

ORDER

The petitioner herein, who was originally appointed as daily wage worker in the fourth respondent University in the year 2002 for the purpose of cleaning of the college toilets, was continued in the said post by increasing daily wage from time to time and finally from the year 2006 onwards, the petitioner was paid consolidated pay and the same was also increased from time to time and finally to Rs.10,000/- per month, in the year 2013. While the petitioner was working as Scavenger – Toilet Cleaner, in the Constituent



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College of the fourth respondent, the said College was taken over by the Government by issuing G.O.(Ms).No.36, Higher Education (G1) Department, dated 28.02.2019. Thereafter, the Government issued G.O.(Ms.)No.186, Higher Education (G1) Department, dated 22.09.2022, issuing financial concurrence for payment of salaries of staff, who were working at the time of taking over of the college, which is presently named as Government Arts and Science College at Andipatti. As the College was taken over with effect from 28.02.2019 and the petitioner has been working in the said College, the petitioner claimed for extending benefit under G.O.(Ms.)No.385, Finance (Pay Section) Department, dated 01.10.2010, whereby the Scavenger cum Toilet cleaner working in various Departments, including local bodies are extended the benefit of time scale of pay on completion of 3 years of service on daily wage or consolidated pay.

2. As the claim of the petitioner was not considered by the respondents, the petitioner on an earlier occasion approached this Court by filing W.P.(MD)No.6629 of 2019 and the said Writ Petition was disposed of by this Court by order dated 11.04.2019, directing the respondents to



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consider the claim of the petitioner by extending benefit under G.O.(Ms.)No. 385, Finance (Pay Section) Department, dated 01.10.2010. It is pursuant to the said order, the Respondent University considered the claim of the petitioner and issued impugned order on 05.10.2020 rejecting the claim of the petitioner on the ground that the said G.O.(Ms.)No.385, Finance (Pay Section) Department, dated 01.10.2010, has no application to the respondents and the petitioner is an employee working under fifth respondent University. Aggrieved by the said proceedings, dated 05.10.2020, the petitioner has approached this Court by filing the present Writ Petition.

3. The respondents filed counter affidavit reiterating the very same contention, contending that the services of the petitioner are not absorbed in the Government College in which the petitioner has been working.

4. The learned Government Advocate placed before this Court G.O. (Ms.)No.186, Higher Education (G1) Department, dated 22.09.2022, wherein the financial concurrence for payment of salaries to the teaching and non-teaching staff working in the above said College which was taken over by the



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Government. In clause (viii), paragraph No.3 of the said Government Order, it is categorically stated that the teaching and non-teaching staff, who were working in the taken over college, as on the date of such taking over will be continued on temporary basis, till the said posts are regularly filled up or services are regularized in the said College. Admittedly, the petitioner herein is one such non-teaching staff, who has been working from the date of taking over of the college and under the control of the respondents 1 to 3, but, not under the control of the respondent University and she is being paid only consolidated pay as on date.

5. From the perusal of G.O.(Ms.)No.385, Finance (Pay Section) Department, dated 01.10.2010, it is evident that the said Government Order was issued only in respect of the employees, who are working on daily wages or consolidated wages including local bodies extending benefit of time scale of pay on completion of 3 years of service either on daily wage or consolidated pay. From the said Government Order, it is noticed that the said Government Order has application only to the employees working on daily wage or consolidated wage. The petitioner herein is admittedly working in



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the above said College under the control of respondents 1 to 3 herein on consolidated pay, since the Government has taken over the said college in the year 2019. If that be the case, the contention of the respondents in the impugned order as well as in the counter affidavit stating that the petitioner is not working in the college in question, but, he is an employee of the fourth respondent University, cannot be sustained. Admittedly, the petitioner herein is working under the control of the respondents 1 to 3 in the College, that was taken over by the respondents by issuing G.O.(Ms).No.36, Higher Education (G1) Department, dated 28.02.2019 and is being paid by the Respondents 1 to 3 only. Admittedly, the petitioner is working since the date of taking over the College till date. Therefore, the reasons on which the impugned order came to be issued, are unsustainable and only a result of non-application of mind.

6. In view of the same, the impugned order passed by the third respondent in Na.Ka.No.20790/P4/2019, dated 05.10.2019 is liable to be set aside and accordingly, set aside and the third respondent is further directed to reconsider the claim of the petitioner for extending the benefit of time scale



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of pay as provided under G.O.(Ms.)No.385, Finance (Pay Section)

Department, dated 01.10.2010, duly taking into consideration the fact that the petitioner is working in Government Arts and Science College, Andipatti, which is under the control by the respondents 1 to 3 from the date of its taking over and pass appropriate orders as expeditiously as possible, at any rate within a period of three months from the date of receipt of a copy of this order. This Writ Petition is disposed of. There shall be no order as to costs.

NCC : Yes/No

27.02.2024

Index : Yes/No

Internet : Yes

LS

To

1.The Principal Secretary,
Department of Higher Education,
Fort St. George, Secretariat, Chennai 600 009.

2.Director of Collegiate Education,
Directorate of Collegiate Education,
9th Floor Evk Sambath Maligai, College Road,
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MUMMINENI SUDHEER KUMAR, J.

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Chennai 600 006

4.The Registrar
Madurai Kamaraj University, Palkalai Nagar,
Madurai 625 021, Madurai District.

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