



WP(MD) No.16605 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.07.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.16605 of 2024
and
W.M.P(MD)No.14372 of 2024

D.Kamaraj

... Petitioner

Vs.

1. State of Tamil Nadu,
Rep. by its Secretary,
Higher Education Department,
Secretariat,
Chennai.

2. The Accountant General (A & E),
Office of the Accountant General,
Chennai.

3. State Rep. by the Commissioner,
Directorate of Technical Education,
53, Sardhar Patel Road,
Guindy, Chennai – 600 025.



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4. The Principal,

Virudhunagar S.Vellaichamy Nadar Polytechnic College,
Virudhunagar - 626001.

5. The Chairman,

Virudhunagar S.Vellaichamy Nadar Polytechnic College,
Virudhunagar - 626001.

6. The Treasury Officer,

District Treasury,
Virudhunagar.

7. The Assistant Treasury Officer,

Treasury Office,
Kariappatti.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 7th Respondent and quash the Ka.Mu.A16/2023/A1 dated 20.02.2023 passed by the 7th respondent based upon the proceedings passed by the 2nd respondent in P23/12327329/2/PPO.No. R2511916 dated 30.01.2023 consequently direct the 3rd respondent to enabling the petitioner to receive the original pension of the petitioner.



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For Petitioner : Mr.R.Senthil Kumar
For Respondents : Mr.M.Siddharthan – for R1 & R3
Additional Government Pleader
Mrs.S.Mahalakshmi – for R2
Standing Counsel

ORDER

The present writ petition has been filed seeking a Writ of Certiorarified Mandamus to quash the proceedings dated 20.02.2023 of the 7th respondent based upon the proceedings passed by the 2nd respondent in P23/12327329/2/PPO.No. R2511916 dated 30.01.2023 consequently, direct the 3rd respondent to enabling the petitioner to receive the original pension of the petitioner.

2. Heard Mr.R. Senthil Kumar, learned counsel appearing for the petitioner, Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents 1 and 3 and Mrs.S.Mahalakshmi, learned Standing Counsel for the second respondent.

3. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.



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4. The petitioner has filed this writ petition challenging the order, dated 20.02.2023 of the 7th respondent, through which, the petitioner's pension has been down-graded otherwise downwardly from Rs.55,400/- to Rs.21,555/-. Earlier, when the proceedings have been issued on 13.09.2020 by the respondents 4 and 5 for recovering a sum of Rs.15,79,377/- as excess payment, the petitioner challenged the same by preferring a Writ Petition in W.P(MD)No.16450 of 2020 and an order has been passed by giving liberty to the petitioner to file an appeal before the appellate authority and a direction to the appellate authority to condone the delay and dispose the appeal. In compliance of the above direction, it is learnt that the petitioner had filed an appeal on 25.06.2024. The appeal is still pending. Despite an order has been passed in the writ petition on 12.04.2023 giving three weeks time to the petitioner to file an appeal and it is learnt that the petitioner has filed appeal only on 25.06.2024 after the impugned order has been passed by the second respondent. In fact, the earlier recovery order, dated 13.09.2020 has been passed in pursuant to the audit objections, in view of the certain career advance increments given by mistake.



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5. However, learned counsel for the petitioner submitted that similar issue has surfaced in a batch of Writ Petitions in W.P.Nos.7135 of 2020 etc., batch, wherein, the Court has held as under:

“41.However the above persons enjoying the CAS shall fulfill the Training and Publication requirement atleast as on 21.03.2018. It is reiterated and re-emphasised that the whole exercise done in pursuant to the issuance of G.O.(Ms).No.111, dated 25.05.2010 would not in any way affect all those who had attained CAS as per the old G.O.(Ms.)No.1081, dated 19.08.1989 as on 24.05.2010. Because they will be coming under the AICTE Regulations, 2010 r/w G.O.(Ms.)No.1081, dated 19.08.1989 and not under G.O.(Ms).No.111, dated 25.05.2010 r/w AICTE Regulations 2012, 2016, and G.O.(Ms).No.58, Higher Education (C2) Department, dated 21.03.2018.

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.



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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 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.”

6. But from the facts now pleaded by the petitioner it is not known as to whether the petitioner is also similarly placed as that of the petitioner, who got the orders in their favour in the writ petition, now cited before this Court.



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7. In such case, it is up to the petitioner to canvass the said point during the hearing of his appeal preferred before the first respondent.

8. Since the petitioner's wife is said to be suffering from serious health issue of cancer, the petitioner has preferred an appeal on 25.06.2024 after the time granted in the earlier writ petition has expired.

9. In the interest of justice, I feel that the appellate authority shall condone the delay and continue to receive the appeal in view of the earlier direction given in this regard already. Only if the appeal of the petitioner has been dealt on merits, the legality of revision of pension by reduction passed by the second respondent can be appreciated.

10. Since the earlier direction itself is to dispose of the appeal at the earliest in order to avoid future inconveniences, I feel the third respondent is directed to complete the appeal after giving an opportunity to the petitioner to make his submission and pass orders



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within a period of four weeks from the date of receipt of a copy of this order. In view of the above exercise, the impugned order of the second respondent shall be kept in abeyance.

11. With the above observation and direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

24.07.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
RM



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To
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R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.16605 of 2024

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