



W.P.(MD).No.30395 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.30395 of 2023

and

W.M.P(MD).No. 26183 of 2023

D.Michael Raj

... Petitioner

Vs.

- 1.The Director of College Education,
College Road, Nungambakkam,
Chennai - 600 009.
- 2.The Accountant General,
Office of the Accountant General,
261, Annasalai, Chennai – 600 018.
- 3.The Joint Director of College Education,
Tirunelveli Region, Tirunelveli.
- 4.St.Xavier's College,
Rep. by its Secretary,
Palayamkottai,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned proceeding passed by the 1st respondent Director of Collegiate Education in Aa.Thi.Mu.No.6338/Vu2/2022 dated 29.06.2022, quash the same.



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For Petitioner : Mr.T.Cibichakraborty

For R-1 to R-3 : Mr.T.Amjad Khan
Government Advocate

For R-4 : No appearance

ORDER

This Writ Petition has been filed seeking to quash the order dated 29.06.2022 passed by the first respondent.

2. Heard Mr.T.Cibichakraborty, learned counsel for the petitioner and Mr.T.Amjad Khan, learned Government Advocate for the respondents 1 to 3.

3. Mr.T.Cibichakraborty, learned counsel for the petitioner submitted that the petitioner was eligible for the sanction of 5% of personal pay in terms of G.O.(Ms).No.197 Finance (Pay Cell) Department dated 15.09.1998 as well as advance increment for completing the Accountant Test-part I in May 2006. The fourth respondent sent a proposal to the third respondent with regard to sanction of 5% personal pay and advance increment. In pursuance



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thereof, the third respondent returned the same by citing the proceedings of the first respondent dated 26.10.2005, wherein it has been stated that the Lab Assistants, who are subsequently promoted as Record Clerks/Junior Assistants/Typists and opted to receive the pay scale of Lab Assistant are not entitled for 5% Special Pay and advance increment. Aggrieved over the same, the petitioner has filed the Writ Petition in W.P.(MD).No.3936 of 2008 praying to sanction those benefits and this Court vide order dated 06.10.2016 allowed the Writ Petition. By considering the order passed by this Court, the first respondent vide order dated 29.07.2021, gave permission to the third respondent to pass orders with regard to sanction of 5% Special Pay with effect from 01.09.1998 and advance increment for passing Account Test Part-I with effect from the next date of completion of the same to the petitioner. Consequently, the third respondent had given approval for the sanction of those benefits vide order dated 13.04.2022.

4. Mr.T.Cibichakraborty, learned counsel for the petitioner further submitted that the petitioner submitted a proposal to the third respondent through the fourth respondent for sanctioning the above benefits and the same was rejected by the third respondent through the



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impugned order dated 29.06.2022 by citing a clarification of the first respondent dated 19.08.2014, wherein it has been stated that the Lab Assistant, who attained Selection Grade or Special Grade of pay prior to 31.12.2005 cannot be sanctioned with the revised Selection Grade / Special Grade Pay scale of Rs.5200-20200+2400 viz., Rs.9300-34800+4200 and Rs.9300-34800+4400/- respectively. Despite the third respondent relied upon the letter of the first respondent dated 19.08.2014 in the impugned order, the same was not furnished to the petitioner before passing the impugned order. Hence, the petitioner has approached this Court by way of filing this Writ Petition.

5. The communication of the first respondent dated 19.08.2014 mentioned in the impugned order is relating to the wrong fixation of pay for the petitioner while he was promoted to the post of Junior Assistant. It is seen from the above communication that the fourth respondent was called upon to offer his explanation as to the alleged wrong fixation of pay for the petitioner. It seems that the petitioner has come to know about the communication from the fourth respondent School authority and has filed this Writ Petition to quash the approved proceedings and to pass suitable orders.



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6. The petitioner has filed this Writ Petition in a pre-matured manner even before any show cause notice being issued to him or the authorities concerned passes any order by re-fixing the scale of pay. If the petitioner is so aggrieved by coming to know about the communication between the first respondent and the fourth respondent, the petitioner is at liberty to give a representation to the first respondent by making his justification as to why his pay should not be revised. The first respondent should also issue a show cause notice to the petitioner before revising the scale of pay of the petitioner on the ground of wrong fixation, if any.

7. With the above observations, this Writ Petition is **disposed of**.
No costs. Consequently, connected miscellaneous petition is closed.

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NCC:yes/no

Index:yes/no

Internet:yes/no

Nsr



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R.N.MANJULA, J.

Nsr

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