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IIN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.03.2025

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.1970 of 2024

and

W.M.P.Nos.2088 & 2090 of 2024

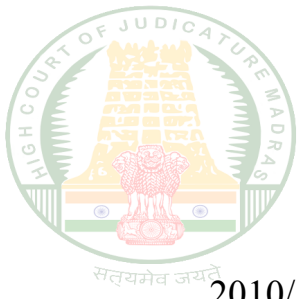
Dr.R.Kanemany,  
HOD/S&H,  
Women's Polytechnic College,  
(Upgraded as Women's Engineering College),  
Lawspet, Puducherry. .. Petitioner

/versus/

1.The Member Secretary,  
Pondicherry Institute of Post-Matric  
Technical Education (PIPMATE),  
(Sponsored by the Government of Puducherry),  
Lawspet, Puducherry 605 008.

2.The Principal,  
Women's Engineering College,  
(A Government of Puducherry Institution)  
Lawspet, Puducherry 605 008. .. Respondents

Prayer: Writ Petition has been filed under Article 226 of the  
Constitution of India praying to issue a Writ of Certiorari to call for the  
records of the 1<sup>st</sup> respondent in Memorandum No.1/1/2/PIPMATE/



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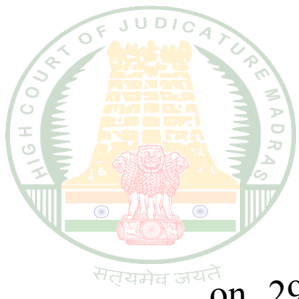
2010/A1/Vol.I/621 dated 20.11.2023 requiring the 2<sup>nd</sup> respondent to recover the excess payment made on account of grant of three non-compounded advance increments and the consequent office order of the 2<sup>nd</sup> respondent in No.6/1/1/WEC/Estt./2023 /A/24 dated 23.01.2024 directing the petitioner to pay the excess recovery amount of Rs.26,29,057/- and to quash the same.

For Petitioner : M/s Bhargavi Gopalan  
For Respondents : Mr.R.Syed Mustafa  
Spl.G.P.(Pondy)

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ORDER

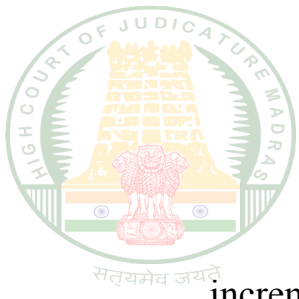
This writ petition has been filed in the nature of a Writ of Certiorari seeking interference with the Memorandum dated 20.11.2023 issued by the first respondent directing the second respondent to recover what had been termed as “excess payment” made on account of grant of three non-compounded advance increments and consequently, also interfere with the order of the second respondent dated 23.01.2024 directing the petitioner to pay “excess” recovery amount of Rs.26,29,057/-. The petitioner seeks that both the aforementioned communications must be quashed by this Court.

2. When the writ petition came up for admission, it had been admitted



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on 29.01.2024 by the learned Single Judge of this Court and stay of recovery alone had been granted. The writ petitioner had been initially appointed as a Lecturer in Karaikal Polytechnic College, Karaikal, within the Union Territory of Pondicherry on 23.11.1994. She completed her M.Phil degree in Chemistry and subsequently, completed her Ph.D. degree in Chemistry in the year 2009. In accordance with the service conditions, which the respondents are bound to offer to the petitioner, she was entitled for incentive increment on completion of M.Phil degree. Subsequently, on completion of Ph.D., she was entitled for three incentive increments. The petitioner was granted only two additional increments on 11.09.2009. This grant of increments was in accordance with the AICTE guidelines published in the Gazettee Notification of AICTE on 04.01.2016. This was also in accordance with the recommendation of the 7<sup>th</sup> Pay Commission. A Notification was issued on 04.01.2016 by the AICTE for Technical Education, wherein after taking into consideration various representations made relating to clarifications arising out of the implementation of AICTE Regulations issued in the year 2010, it had been stated that the advance



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increments for those, who acquired Ph.D./M.Phil/M.Tech/and other equivalent qualifications, while in service could not be allowed to the employees falling in the payband PB-4 (Rs.37400-67000). The petitioner fell within that particular payband. Therefore, by this particular notification which had been issued on 04.01.2016, though earlier the petitioner had been granted incentive for completing M.Phil and Ph.D., the petitioner was considered not entitled for the said grant.

3. In the impugned order, which is dated 20.11.2023 issued by the first respondent and a copy marked to the second respondent, after drawing reference to the above mentioned notification dated 04.01.2016, the three non-compounded advance increments was held cannot be granted to the petitioner and therefore, since it has been clarified that it should be withdrawn, the second respondent was directed to recover the excess amount paid to the petitioner and deposit the same in the Government account.



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4. Consequent to this particular communication made by the first respondent, the second respondent, *vide* further communication dated 23.01.2024 issued to the petitioner, which is also impugned in this writ petition, has forwarded the same stipulating the manner in which the said recovery should be made. This recovery had been stayed by the learned Single Judge of this Court, when the writ petition came up for admission.

5. It is pointed out by the learned counsel for the petitioner that the impugned order stood fall only because it had not taken into consideration the fact that a subsequent clarification has been issued by the AICTE on 29.05.2020. This particular clarification has been issued owing to representations received, while implementing the AICTE regulations dated 05.03.2010 and the subsequent notification dated 04.01.2016. In the notification dated 04.01.2016, the grant of three non-compounded increment had been withdrawn for those in the pay band applicable to the petitioner. In the clarification issued on 29.05.2020, the AICTE had very specifically stated that this particular clarification which has been issued on 04.01.2016



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withdrawing the grant of non-compounded increments for qualification in M.Phil, Ph.D., would be applicable only for those who had acquired Ph.D qualification, after the date of publication of AICTE clarification dated 04.01.2016. This would make it very evident that those who had acquired M.Phil and Ph.D., qualification prior to the 04.01.2016 would be entitled for grant of non compounded increment and it would also imply that those, who had been so granted such increment, were to continue to enjoy such benefit and such benefit should not be withdrawn. This particular clarification and notification dated 20.05.2020 had been completely overlooked by the first respondent, while issuing the impugned order.

6. According to the petitioner, she had completed both M.Phil and Ph.d., much earlier and prior to 04.01.2016 and as a matter of fact, in the year 2007-2009. The impugned orders have not referred to the notification dated 20.05.2020. In that particular notification, it has been clearly stated that the withdrawal of grant of increments would be applicable only to those who had acquired Ph.D. after 04.01.2016. For those who had obtained



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M.Phil and Ph.D. before that date, the increments already been granted cannot be withdrawn. The petitioner falls under that particular category. The impugned orders suffer and set aside.

7. Accordingly, this Writ Petition stands allowed. An interim order of stay had been granted. Any increments withdrawn subsequent to the issuance of the impugned order downgrading of the scale of pay of the petitioner should be revisited and the petitioner must be granted the benefit of such increments and revision of pay scale. The entire exercise must be completed within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

03.03.2025

Index:yes/no  
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To:

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**C.V.KARTHIKEYAN, J.**

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