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Writ Petition No.5671 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-01-2025

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THE HONOURABLE MR JUSTICE BATTU DEVANAND

WP No. 5671 of 2018

& WMP No.7020 of 2018

Dr.Chandrasekar,
S/o.R.Chelliah, Professor, Department of
Computer Science, Periyar University,
Salem-636 011

Petitioner(s)

Vs

To
1. The Principal Secretary to
Government, Government of Tamilnadu, Chennai
2. The Registrar
Periyar University, Periyar Palkalai Nagar,
Salem-636 011

Respondent(s)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records with respect of impugned G.O.Ms.No.328, Higher Education (H1) Department dated 16.11.2017 passed by the first respondent and its consequential order passed by the second respondent dated 09.02.2018 in his proceedings dated PU/R/Estt/D1/Rev.Pay.Fix/2018 and quash the same.

For Petitioner : Mr.R.Nalliyappan



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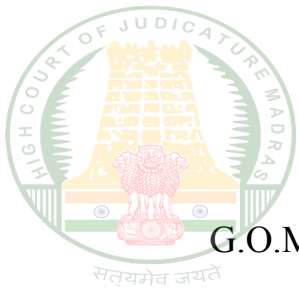
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For Respondents : Mr.C.Jayaprakash, GA for R1
Ms.Mary Sowmi Rexi for
Mr.Godson Swaminathan for R2

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorari, to call for the records with respect of impugned G.O.Ms.No.328, Higher Education (H1) Department dated 16.11.2017 passed by the first respondent and its consequential order passed by the second respondent dated 09.02.2018 in his proceedings dated PU/R/Estt/D1/Rev.Pay.Fix/2018 and quash the same.

2.The facts of the case are not in dispute. The only grievance raised by the petitioner in this Writ Petition is that the Readers were re-designated as Associate Professors and consequently, pay as admissible was fixed pursuant to the re-designation order passed in G.O.Ms.No.350, Higher Education(H1) Department, dated 09.09.2009 and in G.O.Ms.No.179, Higher Education(H1) Department, dated 14.10.2014, the re-designation and fixation of pay was confirmed by the respondents. While so, all of a sudden, the respondents cancelled the earlier Government Orders by issuing



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G.O.Ms.No.328, Higher Education(H1) Department, dated 16.11.2017.

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3.During the course of hearing, the learned counsel for the petitioner has placed a copy of the order of this Court dated 20.10.2022 passed in WP. Nos.9488 to 9491 of 2018. On careful perusal of the same, it appears that G.O.Ms.No.328, Higher Education (H1) Department, dated 16.11.2017, which is under challenge in this Writ Petition has been quashed by this Court. The relevant portion of the said order is extracted herein under:

“7. Any order, cancelling the benefits already conferred on the employees cannot be withdrawn without providing an opportunity to such employees likely to be affected. Thus, the order impugned in the present cases was issued in violation of principles of natural justice and therefore, the cases are to be remanded back for fresh consideration and for providing a opportunity to the aggrieved persons.

8.Accordingly, the order impugned passed by the first respondent in G.O.Ms.No.328, Higher Education(H1) Department, dated 16.11.2017 is quashed and the matters are remitted back for fresh consideration. Accordingly, the first respondent is directed to issue show cause notice to the petitioners



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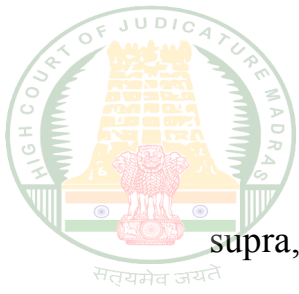


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within a period of four weeks from the date of receipt of a copy of this order. On receipt of the show cause notice, the petitioners are at liberty to submit their explanations/objections alongwith the documents within a period of two weeks from the receipt of the show cause notice to be issued by the first respondent. Thereafter, the first respondent is directed to consider the materials available on record, including the explanations submitted, if any, by the writ petitioners and take a decision and pass orders as expeditiously as possible.

4. In view of the order stated supra, in our considered view, the issue involved in the present Writ Petition is no longer *res-integra*. Accordingly, as G.O.Ms.No.328, Higher Education(H1) Department, dated 16.11.2017 has already been quashed by this Court in the order stated supra, there is no necessity for this Court to again quash the same. Hence, the consequential order passed by the second respondent is liable to be quashed.

5. Accordingly, this Writ Petition is disposed of and the order impugned in PU/R/Estt/D1/Rev.Pay.Fix/2018 dated 09.02.2018 passed by the second respondent is hereby quashed. By following the order stated



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supra, the matter is remitted back for fresh consideration. Accordingly, the

second respondent is directed to issue show cause notice to the petitioner within a period of four weeks from the date of receipt of a copy of this order. On receipt of the show cause notice, the petitioner is at liberty to submit his explanation/objection along with the documents within a period of two weeks from the date of receipt of the show cause notice to be issued by the second respondent. Thereafter, the second respondent is directed to consider the materials available on record, including the explanations submitted, if any, by the petitioner and take a decision and pass orders in accordance with law as expeditiously as possible.

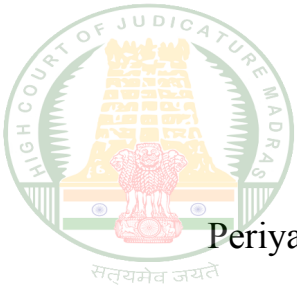
No costs.

Consequently, connected miscellaneous petition is closed.

21.01.2025

Index : Yes/No
Speaking order: Yes/No
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To
1. The Principal Secretary to
Government, Government of Tamilnadu, Chennai
2. The Registrar



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Periyar University Periyar Palkalai Nagar, Salem-636011

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BATTU DEVANAND, J

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