



WEB COPY

WP No. 24820 of 2018



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-02-2025

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

WP No. 24820 of 2018

1. V. Ragupathy

S/o. A. Venkatachalam, No.14,
N.S.K.Avenue, Chettipalayam Road,
Pothanur, Coimbatore - 641 023.

Petitioner(s)

Vs

1. The Commissioner / Director of
Technical Education, Guindy, Chennai
- 600 025.

2.The Principal
Coimbatore Institute of Technology,
Coimbatore - 641 014.

Respondent(s)

PRAYER: Writ petition is filed under Section 226 of the Constitution of India for issuance of a Writ of certiorarified mandamus to call for the records relating to the second respondent herein in Proceeding Order No.703/Admn./Pa.Mu./2008 dated 18.08.2009 and the order passed in the representation dated 24.11.2009 and 10.11.2014 by the first respondent herein



in Letter No.27085/A4/2011 dated 09.12.2015 and in Letter No.27085/A4/2011 dated 5.5.2016 respectively and quash the same and

WEB COPY

consequently issue a suitable direction directing the respondents to confer the petitioner with senior in the post of Director of Physical Education with effect from 04.07.2000 and to confer the Selection grade in the post of Director of Physical Education with effect from 04.07.2005 and confer upgradation on completion of three years of service in the selection grade with effect from 04.07.2008 and refix the petitioner pay scale till the petitioner was allowed to retire on 31.05.2010 and consequently refix and revise the pensionary and retirement benefits and pay all the arrears of pension and retirement benefits with due regards to petitioner's seniority within reasonable time fixed by this Court.

For Petitioner(s): M/s.R.S.Anandan

For Respondent(s): Mr.S.Arumugam
Government Advocate for R1
M/s. S.B.Viswanathan For R2

ORDER

The writ petition has been filed challenging the orders of the second respondent dated 18.08.2009 and the order passed by the first respondent dated 09.12.2015 & 05.05.2018 and consequently issue a suitable direction to direct the respondents to confer the petitioner with senior scale in the post of Director of Physical Education with effect from 04.07.2000 and confer



selection grade in the post of Director of Physical Education with effect from 04.07.2005 and all consequential upgradation in pursuant to the ACP benefit.

WEB COPY

2. The petitioner has joined as Physical Education Instructor on 29.06.1987. He got his promotion to the post of Physical Director on 04.07.1994 and he was conferred with senior scale of pay in the post of Physical Director on 01.05.2006. The petitioner retired from service on 30.06.2009 on attaining the age of superannuation however, he continued in service till the end of the academic year i.e. on 31.05.2010.

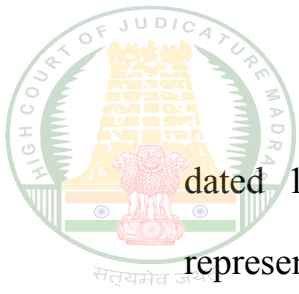
3. As per G.O.Ms.No.342 Higher Education (C2) Department dated 07.08.2000, orders were issued for implementation of revised scale of pay and in accordance with AICTE Regulations. As per the above Government Order, the qualification criteria for the post of Physical Education Director, Deputy Director and Assistant Director have been given. So far as the qualification for Assistant Director of Physical Education is concerned, one should have completed six years of service as University Assistant Director of Physical Education or College Director of Physical Education with the benefit of two years for Ph.D and one year for M.Phil degree holders and should have passed the physical fitness test. Further the person should have attended at least one orientation course and one refresher course of about 3 to 4 weeks of duration each with a proper and well defined procedure. The Ph.D. Degree holders are exempted from attending the refresher courses. The petitioner claims that he



has completed the orientation and refresher courses in UGC sponsored academic colleges of Bharathiyar University, Coimbatore and University of Kerala. Those courses are for three to four weeks duration with proper and well defined evaluation.

4. The petitioner submitted that he is eligible to get the senior scale in the post of Physical Director with effect from 04.07.2000 i.e. on his completion of six years of service in the post of Physical Director. The petitioner claims that he is entitled to selection grade with effect from 04.07.2005. An order has been passed by the second respondent on 18.08.2009 by fixing the senior scale of pay to the petitioner with effect from 01.05.2006. The petitioner has filed an appeal before the first respondent but no order has been passed. So the petitioner filed a writ petition in W.P.No.6818 of 2011 seeking a writ of mandamus to consider his representation. After a direction has been issued in the said writ petition, the Director of Technical Education has passed an order by rejecting the representation of the petitioner.

5. It is stated in the impugned order that the petitioner did not complete 56 days of mandatory refresher course as per G.O.Ms.1786, Higher Education (H3) dated 05.12.1988, within the stipulated time i.e. 04.07.2002. It is further stated that the petitioner had completed 56 days of refresher course on 30.04.2006 only and hence the Senior Grade has been conferred on him only from 01.05.2006. The petitioner had made representation against the order



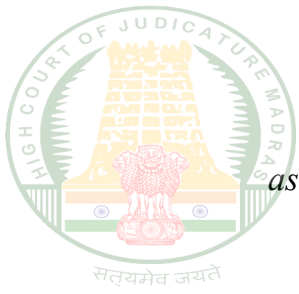
dated 10.12.2015 to the first respondent but he rejected the petitioner's representation once again. The petitioner had once again submitted a review and that was also dismissed.

6. Mr.S.Arumugam, the learned Government Advocate for the first respondent, submitted that the Government Order in G.O.Ms.No.342 Higher Education (C2) Department dated 07.08.2000, is applicable only for direct recruits. The said qualification, experience, refresher courses are not relevant to the Carrier Advancement Scheme (in short 'CAS') as stated by the petitioner. So far as the CAS's requirement is concerned, the qualification criteria has been prescribed under G.O.Ms.305 Higher Education (C2) Department dated 18.07.2000 and the said Government Order has been issued as per the norms prescribed in G.O.Ms.1786, Higher Education (H3) dated 05.12.1988. As per the above norms the Carrier Advancement Scheme to the post of Physical Director and Librarian are prescribed as below:

“ (viii) Every Assistant Librarian and Assistant Director of Physical Education in a University and a Librarian and Director of Physical Education in a College, who is in the scale of pay of Rs.2200-4000 will be placed in the Senior Scale of Rs.3000-5000 if he / she has:

(a) completed 8 years of service after regular appointment with relaxation as provided in Sub para (vii) above;

(b) participated in two refresher courses / summer institutes, each of approximately four weeks duration or engaged in other appropriate continuing education programmes of comparable quality



as may be specified by the UGC; and

(c) Consistently satisfactory performance appraisal reports”.

WEB COPY 7. According to the above qualification the petitioner is required to complete eight years as Director of Physical Education and he is eligible to get Senior Grade provided he satisfies the other conditions of having participated in two refresher courses for approximately four weeks duration or engaged in other appropriate education programmes and has given consistently satisfactory performance.

8. According to the respondents, the petitioner had applied 56 days of refresher course only on 30.04.2006 and hence he was given with senior grade of pay on 01.05.2006 on his completion of two refresher courses of four years each. Further, the candidates have to appear before the Staff Selection Committee (SSC) for upgradation of the post under Career Advancement Scheme. The AICTE Regulations adopted in G.O.Ms.No.342 Higher Education (C2) Department dated 07.08.2000 have given certain qualification criteria for teacher's post in degree level Technical Institutions and in Engineering and Technology discipline. The above Government Order does not speak about CAS and prescribes qualification for getting CAS. But CAS orders have been issued in G.O.Ms.No.305, Higher Education (C2) Department dated 18.07.2000. So the petitioner has to rely G.O.Ms.No.305, Higher Education (C2) Department dated 18.07.2000 which is the exclusive Government Order issued for allowing CAS benefits to the teaching staff of



the technical institutions as that of the second respondent institute. So the qualification criteria for getting the above benefit has to be seen from G.O.Ms.1786, Higher Education (H3) dated 05.12.1988.

9. According to the said Regulation, the petitioner ought to have completed 8 years in the post of Physical Director. But he has not completed four weeks refresher course any time before 04.07.2002 on which date he has completed eight years of service. Even according to the petitioner, the condition to undergo refresher courses for not less than four weeks, has not been relaxed at any point of time even though the time to acquire the said qualification has been extended from time to time.

10. The learned counsel for the petitioner submitted that the extension of time can be considered as relaxation but the same has got different meanings. Just because the extension has been given each time, the persons who needed to complete the refresher courses would participate and complete them at future point of time. Even according to the respondents the petitioner had completed the refresher course for the prescribed duration only on 30.04.2006 and hence he has been given with Senior Grade on 01.05.2006 onwards. As the respondents have found that the petitioner could complete the required qualification for getting the Senior Grade Physical Education Director only in the year 2006, they have granted him the above benefit with effect from 01.05.2006.



WEB COPY

11. Despite the very same reasons have been stated by the respondent authorities, each and every occasion the petitioner was making the same representation. The petitioner, without getting satisfied, is giving repeated representation by wrongly construing the scope of G.O.Ms.No.342 Higher Education (C2) Department dated 07.08.200. As the orders of the respondents have been passed only in accordance with the Government Orders which have laid the qualification for granting CAS and also taking into consideration of the eligibility criteria of the petitioner, I do not find any reason to interfere with these orders.

12. The learned counsel for the petitioner submitted that several other persons similar to him have been given with the said benefit but only in the case of the petitioner the same has not been given.

13. The benefit granted by violating any Rules cannot be taken as a precedent to extend the same to others. It can be a reason for withdrawing or cancelling the said benefit in case it has been extended to others by violating the Rules.



14. In view of the reasons stated above, this writ petition is **dismissed**.

No costs. Connected miscellaneous petition is closed.

WEB COPY

27-02-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

bkn

To

1. The Commissioner / Director of
Technical Education, Guindy, Chennai
- 600 025.

2. The Principal
Coimbatore Institute of Technology,
Coimbatore - 641 014.



WEB COPY

WP No. 24820 of 2018



R.N.MANJULA J.

bkn

WP No. 24820 of 2018

27-02-2025