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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.10.2025

PRONOUNCED ON : 29.10.2025

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.Nos.22259 and 22382 of 2019
and WMP.N0.21712 of 2019

P.Suguna Raman ... Petitioner in WP.No.22259 of 2019

C.Palani ... petitioner in WP.No.22382 of 2019

vs

1. The State of Tamil Nadu
Secretary to Government
Higher Education (C2) Department
Secretariat, Chennai – 9.

2. The Principal Secretary/Commissioner
Directorate of Technical Education,
Guindy, Chennai – 32.

3. The Principal
Central Polytechnic College,
Tharamani,
Chennai – 113.

... Respondent in both the cases

Prayer in WP.22259 of 2019: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorarified mandamus to call for the records connected in proceeding No.1087/A1/2013-14 dated 09.04.2018 of the 3rd respondent and quash the same in so far as denial of



arrears of pay from 19.06.2005 and arrears of pension from 01.01.2009, in the upgraded post of HOD (Mechanical) and consequently direct the respondents to pay arrears of pay and pension arrears with all benefits.

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Prayer in WP.22382 of 2019: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorarified mandamus to call for the records connected in Pro.No.5499/B1/2017-2 dated 01.11.2017 of the 2nd respondent and Pro.No.1087/A1/2013-2 dated 04.01.2018 of the 3rd respondent and quash the same in so far as denial of arrears of pay from 01.11.1998 and arrears of pension from 01.05.2007, in the upgraded post of HOD (Mechanical) and consequently direct the respondents to pay arrears of pay and pension arrears with all benefits.

For Petitioners : Mr.K.Arumugam
(in both cases)
For Respondent : Mr.C.Gauthomaraj, GA
(in both cases)

COMMON ORDER

Since, the issue involved in both the writ petitions is one and the same, they are being disposed of by this common order.

2. Heard the learned counsel for the petitioners and the learned Government Advocate for the respondents and perused the records.



3. For ease of reference, the facts as stated in WP.No.22259 of 2019 is taken for consideration.

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4. The case of the petitioner in brief is that he had joined service on 01.08.1972 as Instrumental Mechanic and was promoted as Instructor in the year 1982 and Associate Lecturer in 1985 and to the post of upgraded Senior lecturer in the year 1995 and retired from service on 31.12.2008.

5. It is the case of the petitioner that from the post of upgraded senior lecturer as there was no further promotion avenues, an upgraded post of Head of Department (for short 'HOD') under GO.Ms.No.337 Higher Education (C2) Department dated 27.08.2009 ; that the aforesaid upgradation scheme is given effect from the date of issuance of GO; and that the Government, considering the request made by the Tamil Nadu Government Polytechnic College Teachers' Association and Federation of Government aided Polytechnic College Teachers Association, had issued clarification vide GO.Ms.No.4 Higher Education (C2) Department dated 12.01.2010 implementing the GO.No.337 from the date of completion of 10 years with notional fixation and monetary benefits from the date of issuance of the GO.



6. It is the further case of the petitioner that since he had completed 10 years of service as upgraded senior lecturer in the year 2005, he was entitled for notional promotion as HOD from 19.06.2005 onwards till the date of attaining the age of superannuation and having retired from service on 31.12.2008.

7. The petitioner contended that though the respondents have granted him notional promotion as HOD, the monetary benefits attached to the upgraded post of HOD have been granted only w.e.f. 07.12.2012 and not from the date of fixation of the notional promotion i.e, 19.06.2005; that the petitioner is entitled for arrears of pay from the date on which he is entitled for notional promotion including associated monetary benefits till the date of superannuation and also pensionary benefits on the basis of notional pay from the date of attaining the age of superannuation; and that the date of 07.12.2012 adopted by the respondents for granting him pensionary benefits on the basis of notional promotion, has no valid basis or sanction in law.

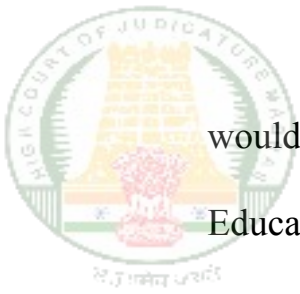
8. Insofar as the petitioner in WP.No.22382 of 2019 is concerned, it is contended that the petitioner had attained the age of superannuation and retired from service on 30.04.2007.



lecturer and continuing in service and would not be applicable to those who had retired from service prior to issuance of GO.Ms.No.337 dated 27.08.2009.

12. On behalf of the respondents it is also contended that since, the petitioners have retired from service on 31.12.2008 and 30.04.2007 respectively i.e, prior to issuance of GO.Ms.337 dated 27.08.2009 and the said GO being prospective in nature, the petitioners are not entitled for being conferred with any benefit thereunder or in terms of GO.No.4 dated 12.01.2010.

13. On behalf of the respondents it is further contended that on a being sought for by the Commissioner of Technical Education vide letter dated 15.06.2010, as to whether the GO.Ms.No.337 and GO.Ms.No.4 would apply to teachers like petitioners who have retired from service before 27.08.2009, the Government in principal had extended the said benefit to the teaching staff who are eligible for promotion and retired before 2009. The Government, however, while extending the said benefit to the teachers who have retired prior to 27.08.2009, has specified that the pension benefits



would only be paid from the date of publication of letter Ms.No.234, Higher Education (C2) Department dated 07.12.2012.

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14. The respondents by the counter affidavit further claimed that the petitioners having retired from Government service on 31.12.2008 and 30.04.2007 respectively on attaining the age of superannuation; and that the post in which the petitioner had retired was upgraded as HOD w.e.f. 19.06.2005 notionally and was sanctioned increments / revised fixation / monetary / pensionary benefit w.e.f. 07.12.2012 i.e, from the date of issue of letter dated 07.12.2012.

15. It is also contended by the respondent that the post in which the petitioner had retired was upgraded as HOD vide the Commissioner of Technical Education proceedings dated 01.11.2017 in the light of the Government Lr.Ms.No.215 dated 08.10.2016 and based on the aforesaid order, pay of the petitioner was revised vide Proceedings of the Principal, Central Polytechnic College, Chennai dated 09.04.2018 and the petitioner was paid an amount of Rs.2,38,672/- as difference amount due from Death Cum Retirement Gratuity.



16. On behalf of the respondents, it is also contended that though in terms of the guidelines issued by AICTE, the petitioner is not entitled to claim the position of upgraded HOD as he had only possessed a Diploma qualification, by virtue of his experience and length of service was awarded the position of upgraded HOD by creating a separate scheme which itself a concession and as such the petitioner cannot claim of he being entitled to be paid the arrears of salary as upgraded HOD from 19.06.2005 till the date of his superannuation and also pensionary benefits on the basis of the said pay scale from the date of superannuation till 06.12.2012. By contending as above, the respondents seek for dismissal of the writ petition.

17. I have take note of the respective contentions urged.

18. Though, the petitioners by the present writ petitions filed claim for being paid arrears of salary in the post of upgraded HOD from the date of they completing 10years of service as upgraded senior lecturer, it is to be noted that at the time when the petitioners attained the age of superannuation and retired from service there was no position or post of upgraded HOD. It is only upon issuance of GO.Ms.No.337 dated 27.08.2009, further promotional avenue to the position of upgraded HOD



has been created. Further, the aforesaid GO clearly specifies that the upgraded scheme is given effect from the date of issuance of GO.Ms.No.337 dated 27.08.2009. The specific mention in the GO of the effective date to the upgradation scheme is from the date of the issuance, the same is applicable prospectively and would not be applicable in relation to upgraded senior lecturer who had retired prior to the issuance of the aforesaid GO.

19. However, the Government by considering the representation / request from the Polytechnic College Teachers Association and Government Aided Polytechnic College Teachers Association, had issued the clarification making the GO.Ms.No.337 applicable in respect of all the senior lecturer who have completed 10 years of service as senior lecturer, instead of the date of issuance of GO.Ms.No.337 dated 27.08.2009, by clearly specifying that such upgradation would only be notional fixation and that the monetary benefit would however be only from the date of issuance of GO.Ms.No.337.

20. The effect of clarification issued by the Government vide GO.Ms.No.4 is that a senior lecturer who had completed 10 years as senior



lecturer prior to 27.08.2009 though would be considered as promoted notionally to the post of upgraded HOD, however, would not be entitled to claim any monetary benefit, and such the benefit can only be claimed w.e.f. 27.08.2009.

21. However, the Government while issuing GO.Ms.No.4, did not choose to specify that the aforesaid clarification would be applicable only in relation to upgraded senior lecturers who are in service and not to those senior lecturers who have retired prior to 27.08.2009. However, on a clarification being sought as to whether the benefit of GO.Ms.No.337 as clarified by GO.Ms.No.4 is to be extended to the teachers who had retired prior to 27.08.2009, the Government seems to have taken a conscious decision to make the aforesaid GO applicable even to those senior lecturers who had retired prior to issuance of GO.Ms.No.337 dated 27.08.2009 subject to they being eligible (i.e.) having completed 10 years of service as senior lecturer for being considered as upgraded HOD notionally.

22. Once, the Government in principal had considered that the senior lecturers who have retired prior to issuance of GO.No337 are also eligible for being considered as promoted upgraded HOD, even though notionally,



the teachers who have retired prior to issuance of the GO would also be eligible for the monetary benefit thereunder from the date of issuance of GO as specified therein.

23. Though, the petitioners have claim of they being entitled for arrears of salary in the scale applicable to upgraded HOD from the date of completion of 10 years as senior lecturer, since, the position of upgraded HOD was not even in existence at the relevant point of time and having been created only on 27.08.2009 vide GO.Ms.No.337, which is also categorically stated and GO.Ms.No.4, whereby it has been categorically stated that the said promotion being conferred only notionally, and the petitioners who had retired prior to issuance of the aforesaid GOs cannot claim for payment of arrears of salary in the post of upgraded HOD. This is also by applying the Rule of no work no pay, in the case of notional promotion. [Refer – 2007 (11) SCC 632 – *Union of India V. B.M.Jha*]

24. Thus, this Court is of the view that the claim of the petitioners for payment of arrears of salary from the date of their notional promotion till the date of superannuation in the position of upgraded HOD is not justified and is accordingly rejected.



26. Thus, the petitioners having retired from service on December and April 2007 respectively, cannot claim for arrears of pension from date of their superannuation till the date of issuance of G.O. as the post of HOD had come into existence only upon issuance of GO.Ms.No.337. Though, the respondents had claimed that the GO.Ms.No.337 as clarified by GO.Ms.No.4 would only be applicable in relation to the teachers who are in service and it is only upon the notification sought for having been provided on 07.12.2012, the petitioners become entitled to claim the monetary benefit attached to the post of HOD, the authority while clarifying, that the aforementioned GOs would be applicable even to the teachers who have retired prior to 27.08.2009, however, stated that the pension benefits may be paid only from the date of issuance of the letter dated 07.12.2012. It is not clear on what basis the



respondents / authority issued the aforesaid letter and altered the applicable date of GO by postponing the grant of monetary benefits from 27.08.2009 to the date of publication of letter 07.12.2012.

27. Firstly, it is to be noted that the GOs are issued in exercise of power conferred under Article 166 of the Constitution of India and the respondents/ authority by a letter could not have altered the position mentioned in the GO.

28. Secondly, the respondents under the guise of providing clarification by letter dated 07.12.2012 had introduced a new date for implementation of GO.No.337 as clarified by GO.No.4 without undertaking such exercise through a Government Order.

29. It is settled position of law that a Government letter cannot prevail or over ride the Government Order. [Refer – (i)**R.P.Bhardwaj V. Union of India** reported in (2005) 10 SCC 244. (ii)**P.Jeya v. Union of India and others** reported in 2004 SCC online MAD 571 and (iii) Unreported decision in **WP.No.1713 of 1988 etc batch dated 07.11.1990.**]



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30. As it is not shown to this Court of the Government having taken a different view as to the applicability of GO.Ms.No.337 as clarified vide GO.Ms.No.4 in respect of the teachers who had retired prior to 27.08.2009 and on the other hand, the respondents having admitted to the fact of teachers like the petitioners who have retired prior to issuance of GO.Ms.No.337 being eligible for notional promotion to the position of upgraded HOD, though notionally, the scale of pay on the date of their retirement would be that of the upgraded HOD only, that need to be considered for arriving at pensionary benefits.

31. As the GO.Ms.No.337 as clarified in GO.Ms.No.4 specifically states that the monetary benefits would be applicable only from the date of issuance of GO.Ms.No.337 i.e 27.08.2009, the petitioners though had retired prior to the said date having been granted notional promotion to the position of upgraded HOD after completing 10 years of service as senior lecturer, would be entitled for monetary benefits for getting their pension fixed from the date as specified in GO.Ms.No.337 and not on the basis of any subsequent date by an executive fiat which has no valid basis.



32. Though, on behalf of the respondents it is contended that the petitioners having been paid monetary benefit w.e.f. 07.12.2012 on the basis of scale of pay of upgraded HOD, as this Court has now come to a conclusion of the said date has no legal basis to stand; the petitioners would be entitled to the pensionary benefits in the pay scale of upgraded HOD w.e.f. 27.08.2009 and are entitled for arrears of pension for the period from 27.08.2009 till 07.12.2012.

33. Accordingly, both the writ petitions are allowed in part and the respondents are directed to pay the arrears of pension to the petitioners by applying the pay scale of upgraded HOD from the date of issuance of GO.Ms.No.337 (i.e.,) 27.08.2009 till 06.12.2012 within a period of three (3) months from the date of receipt of a copy of this order. No order as to costs. Consequently, connected miscellaneous petition is closed.

29.10.2025

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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T. VINOD KUMAR, J.

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To

1. The State of Tamil Nadu
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2. The Principal Secretary/Commissioner
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Guindy, Chennai – 32.

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Pre-Delivery Common Order in

W.P.Nos.22259 and 22382 of 2019

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