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W.P.No.32054 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2026

CORAM

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P.No.32054 of 2018

and WM.P.Nos.37300 & 37301 of 2018

Tony Augastin

...Petitioner

Vs.

1.Govt. of Tamil Nadu
Rep.by the Secretary
Higher Education (G2 Department)
Secretariat,
Chennai -9.

2.Principal Accountant General (A & E)
361, Anna Salai
Chennai 600 018.

3.The Director of Collegiate Education
College Road
Chennai 6.

4.The Joint Director of Collegiate Education
Chennai Region
Chennai.

5.The Secretary
Women's Christian College
Nungambakkam
Chennai.



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6.The Sub Treasury
Egmore – Nungambakkam Taluk Office Campus
Spurtank Road, Chennai 600 031.

...Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to proceedings No.P23/3/12321609/ADK dated 10.10.2018 issued by the 2nd Respondent, quash the same and direct the 2nd respondent to pay pension on the last drawn pay of the petitioner namely Rs.62,200/-.

For Petitioner : Mr.R.Subramanian

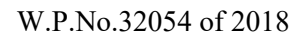
For Respondents : M/s.Hema Muralikrishnan
Standing Counsel for R1

Mr.Vadivelu Deenadayalan for R2 & R3
Additional Government Pleader

ORDER

The petitioner has sought for the following relief:-

“To call for the records pertaining to proceedings No.P23/3/12321609/ADK dated 10.10.2018 issued by the 2nd Respondent, quash the same and direct the 2nd respondent to pay pension on the last drawn pay of the petitioner namely Rs.62,200/-.”



3. The petitioner was initially appointed as a Lab Assistant, and he was awarded Selection Grade in the post of Lab Assistant on 01.07.1990 after completion of ten years of service. He was subsequently promoted as Junior Assistant on 01.07.1998 and as Assistant on 01.07.2011. Since the pay scale assigned to the post of Junior Assistant was lesser than the Selection Grade pay granted to the petitioner, he opted to continue in the scale of pay applicable to the post of Lab Assistant.

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5. In response, the fourth respondent sent a communication dated 12.11.2018 along with the petitioner's representation dated 31.10.2018, stating that the petitioner had been promoted to the post of Junior Assistant (a higher post) but had opted to draw pay in the scale of the lower post, i.e., the Lab Assistant post, as the lower post scale of pay was higher than that of the promoted post. Hence, sanction of Grade Pay of Rs.4,200/- to the petitioner was stated to be correct.

6. Accordingly, the present Writ Petition has been filed to quash the impugned order of the second respondent and to direct the second respondent to compute and pay pension based on the last drawn pay of the petitioner.

7. Mr.R.Subramanian, learned counsel for the petitioner, submitted that the petitioner had opted for the scale of pay in the lower post in terms of G.O.Ms. No.590, Finance (Pay Cell) Department, dated 01.08.1992, and the option exercised by the petitioner having been accepted by the State, the second respondent committed an error in fixing the Grade Pay of the petitioner at Rs.2,400/- instead of Rs.4,200/-.



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8. He further submitted that a clarification had been issued by the third respondent dated 08.07.2011, wherein it was stated that persons who had been granted Selection Grade/Special Grade prior to 01.01.2006 and thereafter, during the period from 01.01.2006 to 31.05.2009, upon exercising their option, were entitled to the pay scale of Rs.9,300–34,800 with Grade Pay of Rs.4,200/-. Therefore, contrary to the Government Order and the clarification letter, the second respondent fixed the Grade Pay of the petitioner at Rs.2,400/- instead of Rs.4,200/-.

9. In response, Ms. Hema Muralikrishnan, learned Standing Counsel for the first respondent, and Mr. Vadivelu Deenadayalan, learned Additional Government Pleader for respondents 2 and 3, submitted that the pay scale attached to the post of Junior Assistant had been revised and that the petitioner, having exercised his option to come under the revised pay scale attached to the post of Junior Assistant, was not entitled to the higher Grade Pay applicable to the Selection Grade/Special Grade of his substantive post.



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10. They further submitted that the second respondent, taking into account the circular dated 04.10.2013, had rightly fixed the Grade Pay of the petitioner at Rs.2,400/-, and the same cannot be faulted.

11. The arguments advanced by the learned counsel on either side and the materials placed on record have been duly considered.

12. The facts, as narrated above, are not in dispute and therefore are not reiterated. The clarification letter dated 04.10.2013, relied upon by the learned State Counsel for the second respondent, reads thus:—

2. In the reference fourth cited, it has already been clarified that the benefit of higher grade pay applicable to lower post (Selection Grade/Special Grade) on subsequent promotion to a higher post with lower grade pay with reference to Point No.13 of Government letter first cited is admissible only in case of promotions after 01.01.2006. However, I am to clarify further that orders were issued revising the Ordinary Grade scale of pay of certain categories of employees /teachers based on the recommendations of One Man Commission, 2010/subsequent government order notionally with effect from 01.01.2006/12.12.2007 with monetary benefit from 01.08.2010/01.01.2011.the employees/teachers who have been promoted to higher post prior to



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01.01.2006 and continued to retain the higher scale of pay of the substantive post by applying G.O.Ms.No.590, Finance (Pay Cell) Department, dated 01.08.1992 have already availed the fitment benefit of fixation of pay by applying 1.86 factor in the revised scale of pay with effect from 01.01.2006 by taking into account the substantive pay in the pre-revised scale of pay as on 31.12.2005. Therefore, they are not entitled for higher Grade Pay applicable to the Selection Grade/Special Grade of the substantive post i.e., lower post consequent on the subsequent revision of pay made to such categories.”

13. The said clarification is applicable only to those who have exercised their option to extend the revised scale of pay to the substantive post. However, in the present case, the petitioner had not exercised any option to extend the revised pay scale attached to the post of Junior Assistant and had, on the other hand, retained the pay scale attached to the post of Lab Assistant in terms of G.O.Ms. No.590 dated 01.08.1992.

14. The fourth respondent had also issued a communication dated 12.11.2018, along with the petitioner's representation dated 31.10.2018, to the second respondent, stating that though the petitioner had been promoted to the post of Junior Assistant, he had opted to draw pay in the scale of pay attached to the lower post and, therefore, sanction of Grade Pay of Rs.4,200/- to the petitioner was correct.



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15. The second respondent, contrary to the clarification issued by the fourth respondent, relied upon the clarification letter dated 04.10.2013 issued by the Finance Department and held that the same would apply to the petitioner. However, such reliance is misplaced, since the petitioner had not opted for the revised pay scale attached to the higher post. Therefore, the impugned proceedings issued by the second respondent fixing the Grade Pay of the petitioner at Rs.2,400/- are not legally sustainable.

16. Accordingly, this Writ Petition is allowed. The impugned order passed by the second respondent in Proceedings No. P23/3/12321609/ADK dated 10.10.2018 is hereby set aside. The second respondent is directed to fix the Grade Pay of the petitioner at Rs.4,200/- and to compute & revise the pension and pensionary benefits accordingly and disburse the same to the petitioner within a period of three months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petitions are closed. There shall be no order as to costs.

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Index : Yes/No
Speaking order : Yes/No
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