

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P.No.25267 of 2014
& M.P.Nos.1 and 2 of 2014 and M.P.No.1 of 2015

Dr.K. Sivasangeetha Petitioner

versus

1. The Registrar
Tamil Nadu Dr.M.G.R.Medical University
Chennai-32.

2. Dr.Jhansi Charles Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the first respondent in her proceedings No.Rc.No.E1(1)/24796/2013 dated 11.12.2013 and quash the same and consequently direct the first respondent to sanction and disburse the full additional charge allowances for holding the posts of Deputy Controller of Examinations, Controller of Examinations and Registrar of the Tamil Nadu Dr.M.G.R. Medical University, Chennai for the period from 5.8.2010 to 11.8.2011, 8.7.2011 to 1.8.2012 and 1.9.2012 to 17.5.2013 respectively together with interest to the petitioner within the time frame.

For petitioner : Mr.C. Prakasam

For Respondents : Mr.G. Ashokapathy for R.1
Mr. Vikram Ramakrishnan for R.2

O R D E R

This writ petition is directed against the memorandum dated 11 December 2013, whereby and whereunder, the request made by the petitioner for payment of additional charge allowance for holding additional post for the periods from 5.8.2010 to 31 July 2012 and from 1 September 2012 to 17 May 2013 was rejected.

Brief facts:

2. The petitioner was appointed as Assistant Professor in Tamil Nadu Dr.M.G.R. Medical University. The petitioner was asked to look after the duties of Deputy Controller of Examinations. Subsequently, she was given full additional charge of Controller of Examinations. Similarly, she functioned as Registrar of the University from 1 September 2012 to 17 May 2013. The petitioner discharged her duties as full additional charge in addition to her normal duty as Assistant Professor. The petitioner claimed additional remuneration on account of such additional duty. The request was rejected by the University.

3. According to the petitioner, the Government Order in G.O.Ms.No.122, Personnel and Administrative Reforms (F.R.IV) Department dated 3 October 2011 provides for additional pay for holding full additional charge irrespective of the duration of charge held or number of posts of additional charge held by Group A and B Officers. It was further stated that Fundamental Rules 49 also provides for permitting payment of additional charge allowance. The petitioner therefore wanted the University to pay her additional remuneration and related allowance, after quashing the rejection order.

4. The Registrar, Tamil Nadu Dr.M.G.R. University in the counter affidavit justified the impugned order. According to the Registrar, Statute 20(5) of Service Statutes of Tamil Nadu Dr.M.G.R. University makes it clear that the University employees entrusted with any other work would not be given any other remuneration. Similarly Statute 16 (3) provides that in case Fundamental Rules of the Tamil Nadu Government is not inconsistent with any of the provisions under the Statute and the Act, then it would be implemented. According to the University, there is a specific statute operating as a bar for payment of extra allowance for holding full additional charge and as such the University was correct in passing the impugned order.

Submissions:

5. The learned counsel for the petitioner contended that the University is bound to act in accordance with the Government order in G.O.Ms.No.122, Personnel and Administrative Reforms (FR.IV) Department dated 3 October 2011 and Fundamental Rules 49. According to the learned counsel, the petitioner was given full additional charge in the post of Deputy Controller of Examinations, Controller of Examinations and Registrar. She has put in extra hours to do justice to the additional posts she was holding. The petitioner is therefore entitled to such remuneration.

6. The learned Standing Counsel for the University supported the impugned order.

Factual Analysis:

7. The petitioner is an employee of Tamil Nadu Dr.M.G.R. University. According to the petitioner she was given additional charge to look after the office of Deputy Controller of Examinations and thereafter to function as Controller of Examinations for the period from 5 August 2010 to 11 August 2011 and 8 July 2011 to 1 August 2012 respectively. She was given full additional charge to look after the work of Registrar for the period from 1 September 2012 to 17 May 2013. Though the petitioner has taken up a contention that by virtue of the orders passed by the University, she was given additional charge, the fact remains that she has not produced the orders giving her additional charge.

8. The Tamil Nadu Dr.M.G.R. University is governed by the Statute approved by the Chancellor. Statute 20(5) of the Service Statutes reads thus:

"A whole time University employee may be entrusted with any work connected with the University academic or administrative as required by the proper authority without any liability to meet the claim for additional remuneration."

9. The Statute of Tamil Nadu Dr.M.G.R. University clearly provides that in case the University employees are entrusted with any work connected with the University either academic or administrative, they would not be entitled for additional remuneration.

10. The claim of the petitioner is primarily based on Fundamental Rules 49.

11. Statute 16(3) of the Service Statutes of the University excludes applicability of Fundamental Rules in case it is inconsistent with the provisions of the Statute. Statute 16(3) of the Service Statutes reads thus:

"Applicability of F.R.:— The Fundamental Rules of the Tamil Nadu Government shall apply in general regarding pay fixation, increments, joining time, foreign service, additional charge, wherever it is not inconsistent with any of the provisions under these statutes and the Act."

12. The University has framed its own Statute notwithstanding the Government Orders providing for extra remuneration. The Statute is not under challenge. The University Statute is very clear that the employees entrusted with the work connected with the University, either in academic or administrative field are not entitled to additional remuneration. Even though Fundamental Rules 49 provides for payment of additional remuneration, Statute 16(3) bars the

applicability of the said provision. Fundamental Rules 49 is inconsistent with Statute 20(5) of the Service Statutes framed by the University. Therefore no reliance could be placed on Fundamental Rules 49 to contend that the petitioner is entitled to additional remuneration.

13. The affidavit filed in support of the writ petition does not contain any indication that the appointment order issued to the petitioner provided that she would be paid additional remuneration. In case the order issued to the petitioner contained an undertaking to pay additional remuneration for holding additional charge, the petitioner would have produced the appointment orders. There are no materials before this Court to arrive at a conclusion that the University has given assurance to the petitioner that she would be paid additional remuneration on account of her functioning as Deputy Controller of Examinations, Controller of Examinations and finally as Registrar. Therefore, I do not find any merit in the contention taken by the petitioner.

Result:

14. In the upshot, I dismiss the writ petition. Consequently, the connected MPs are closed. No costs.

Tr/

s/d-
Assistant Registrar(R)

True Copy

Sub-Assistant Registrar

To

The Registrar
Tamil Nadu Dr.M.G.R.Medical University
Chennai-32.

+ 1 cc to Mr.C.Prakasam, Advocate SR 19048

+ 1 cc to Mr.D.Saravanan, Advocate SR 18655

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