



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P. (MD) No.3550 of 2011

Tamil Nadu Federation of Universities,
Faculty Associations (TANFUFA),
Represented by its Convener
Dr.S.Krishnaswamy

: Petitioner

Vs.

1. University Grants Commission,
Represented by the Secretary,
Bahadurshah Zafar Marg Road,
New Delhi-110 002.
2. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Department of Higher Education,
Secretariat,
Chennai.
3. The Vice Chancellor,
Madurai Kamaraj University,
Madurai-20.
4. Madurai Kamaraj University,
Represented by its Registrar,
Palkalai Nagar,
Madurai-21.

: Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus, directing the second respondent to implement the UGC Recommendations dated 31.12.2008, and specifically section 8(f) relating to the stipulation of enhancement of the Retirement Age for teaching staff in universities and colleges to the age of 65, within a time stipulated by this Court.

For Petitioner	: Mr.S.Rajasekar
For Respondent No.1	: Mr.B.Vijay Karthikeyan
For Respondent No.2	: Mr.Aayiram K.Selvakumar, Government Advocate
For Respondent No.3	: No Appearance
For Respondent No.4	: Mr.M.Muthugeethaiyan

**ORDER**

The petitioner filed this Writ Petition to direct the second respondent to implement the Recommendations of the University Grants Commission, dated 31 December, 2008 and more particularly, Section 8 (f) relating to the enhancement of retirement age for teaching staff in Universities and Colleges from 62 to 65. Since follow-up action was not taken by the second respondent, the petitioner is before this court.

2. Heard the learned counsel for the petitioner, the learned counsel for the first respondent, the learned Government Advocate appearing on behalf of the second respondent and the learned counsel for the fourth respondent.

3. The Supreme Court in **Jagdish Prasad Sharma v. State of Bihar [2013(8) SCC 633]** considered the question as to whether the State is entitled to alter the terms and conditions of employees of Universities/Colleges, in the light of the UGC Scheme. The Supreme Court was of the view that it is for the concerned State Government to decide as to whether the recommendations made by the Commission should be followed in the respective States. Paragraph 78 of the judgment reads thus:

"78. We are then faced with the situation where a composite scheme has been framed by UGC, whereby the Commission agreed to bear 80% of the expenses incurred by the State if such scheme was to be accepted, subject to the condition that the remaining 20% of the expense would be met by the State and that on and from 01.04.2010, the State Government would take over the entire burden and would also have enhanced the age of superannuation of teachers and other staff from 62 to 65 years. There being no compulsion to accept and/or adopt the said Scheme, the States are free to decide as to whether the Scheme would be adopted by them or not. In our view, there can be no automatic application of the recommendations made by the Commission, without any conscious decision being taken by the State in this regard, on account of the financial implications and other consequences attached to such a decision. The case of those petitioners who have claimed that they should be given the benefit of the Scheme dehors the responsibility attached thereto, must, therefore, fail."

4. The issue before the Supreme Court in **Jagdish Prasad Sharma's** case cited *supra* was in respect of the very same question raised in this Writ Petition. The petitioner wanted the second respondent to implement the UGC recommendations. There is no question of directing the second respondent to implement the UGC



recommendations without giving an opportunity to the State Government to take a decision as to whether recommendations should be followed in the State of Tamil Nadu.

5. There is nothing on record to show that the second respondent considered the representation submitted by the petitioner for implementing the UGC recommendations.

6. The second respondent is directed to consider and dispose of the representation dated 16.02.2011 on merits and as per law with an opportunity of hearing to the petitioner. Such exercise shall be completed, within a period of four months from the date of receipt of a copy of this order.

7. The Writ Petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
The State of Tamil Nadu,
Department of Higher Education,
Secretariat,
Chennai.

2. The Secretary,
University Grants Commission,
Bahadurshah Zafar Marg Road,
New Delhi-110 002.

+ 1 CC TO Mr.T.LAJAPATHI ROY, ADVOCATE IN SR No. 46418
+ 1 CC TO Mr.B.VIJAY KARTHIKEYAN, ADVOCATE IN SR No. 46387
+ 1 CC TO Mr. M.MUTHUGEETHAIYAN, ADVOCATE IN SR No. 46333
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 46543

SML

TE/SKS-RR : 22/09/2016 : 3P/7C

Order made in
W.P. (MD) No. 3550 of 2011
Dated: 22.08.2016