

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION NO.14840 OF 2013

ORDER:

The petitioner completed degree in Physiotherapy and when a notification was issued on 24.09.2003 calling for applications from the eligible candidates for the posts of Tutor, Lecturer, Assistant Professor etc., he applied to the post of Tutor in Physiotherapy. He appeared for an interview held on 23.12.2003 and was selected. Proceedings were issued on 26.12.2003 appointing him as Tutor in the College of Physiotherapy on a temporary basis. When he was working as such, another notification was issued on 28.01.2005 as "Walk in Interview" and calling applications from the eligible candidates for the posts of Lecturer, Assistant Professor etc. Since the petitioner was eligible to hold the post of Lecturer, he applied, appeared for interview on 11.02.2005, and got selected by the Selection Committee and proceedings were issued on 11.02.2005 selecting him to the post. An order of appointment was issued on 12.02.2005 appointing him as Lecturer in the College of Physiotherapy on temporary basis. His services were regularized as such with effect from 16.02.2007. He was declared as an approved probationer as lecturer on 14.07.2007. Thereafter, he was promoted as Assistant Professor on 18.02.2008 and declared as approved probationer on 18.02.2009. A tentative seniority list was also communicated on 25.10.2010.

While so, a memo was issued on 29.01.2011 calling for objections on the ground that the AG Audit raised an objection with regard to the promotions made and application of UGC scales of pay to the petitioner. The petitioner challenged the same in WP.No.3133 of 2013 and when no interim orders were issued, he submitted his objections on 14.02.2011. However, when proceedings were issued on 06.05.2013 reverting him from the post of Lecturer in Physiotherapy, was placed in A.P. PRC scales for the post of Lecturer and ordered the amount to be recovered in monthly instalments, he filed the present

Writ Petition.

A counter affidavit is filed stating that the petitioner obtained 53% marks at Post Graduation Level and when the AG audit raised an objection, the relevant Government Orders were perused. It was decided that he was not suitable for promotion to the post of Assistant Professor and extending the UGC scales of pay. He was reverted and placed in A.P. PRC scales prescribed for the post of Lecturer as per G.O.Ms.No.57 dated 07.02.2001 with benefit of subsequent revisions. It was further stated that the proceedings were issued on 29.01.2011 communicating the decision to the effect that he was reverted as Lecturer and he was brought to State scales as he was not possessing 55% of marks in Post Graduation as required for the post of Lecturer. Though he submitted a representation pursuant to the said letter, since the reasons were not convincing, an order was passed on 06.05.2013 reverting him as Lecturer. At the time of issuance of Annual Seniority List on 15.01.2013 also, the petitioner was clearly informed that his seniority and continuance in UGC scales would be reviewed and a separate communication would be issued. The petitioner filed WP.No.3133 of 2013 questioning the proceedings dated 15.01.2013. In the facts of the case, the recovery of excess amount paid to the petitioner due to erroneous pay scales of UGCRPS 1996 and 2006 scales is proper as he is not eligible to hold the post as Assistant Professor as per G.O.Ms.No.208 Higher Education (UE-II.1) Department dated 29.06.1999 and G.O.Ms.No.14 Higher Education (UE.II) Department Dated 20.02.2010 which mandate possession of 55% marks at PG level.

It is clear that the petitioner was appointed as Lecturer in the College of Physiotherapy on temporary basis with effect from 12.02.2005 and his services were regularized with effect from 16.02.2007. He was declared as an approved probationer in the post of Lecturer on 14.07.2007. He was promoted as Assistant Professor on 18.02.2008 and was declared as an approved probationer on

18.02.2009. Thereafter, the AG Audit raised an objection with regard to promotion of the petitioner and application of UGC scales of pay to the petitioner. Admittedly, the petitioner did not obtain 55% marks in the Post Graduation level. The petitioner submitted an explanation on 14.02.2011 pursuant to a memo issued on 29.01.2011 and since it did not contain any reason, an order was passed on 06.05.2013 reverting him as Lecturer in Physiotherapy with effect from 15.05.2005 and apply the A.P. PRC scales. The main ground raised by the petitioner is that there were no qualifications prescribed in the notification for Fifth Pay Commission and he requested for continuance of application of UGC scales of pay.

Learned counsel for the petitioner submits that in the impugned order dated 06.05.2013 the representation of the petitioner was not considered but the respondents passed the order reverting the petitioner as Lecturer and applying A.P. PRC scales in the place of UGC scales which is illegal.

No doubt, a perusal of the proceedings dated 06.05.2013 show that the explanation of the petitioner was not considered. In view of the same, this Court is constrained to set aside the order dated 06.05.2013 and remand the matter to the respondent for passing fresh orders in accordance with law after hearing the petitioner within a period of three months from the date of receipt of a copy of this order.

The Writ Petition is, accordingly, allowed to the extent indicated above. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(A.RAMALINGESWARA RAO, J)

29th July 2016
RRB