

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 3619 of 2006

ORDER:

-

Heard Sri I.Venkata Prasad learned counsel appearing for the petitioner and Government Pleader for Higher Education.

The present writ petition came to be filed seeking issuance of writ of mandamus to declare that the petitioner is entitled to draw the advance increments for possessing higher educational qualifications of M.Phil., Ph.D., in pursuance of Rc.No.1738/B2/2000, dated 11.05.2000 issued by the Regional Joint Director of Intermediate Education, Cuddapah Region, Cuddapah, with all consequential benefits by holding action of the respondents in withholding advance increments, as illegal, arbitrary and violative of principles of natural justice.

The averments in the affidavit filed in support of the writ petition would show that after completing M.Sc. the petitioner was appointed as Junior Lecturer in Physics in S.A.P.S. Aided Junior College, Gorantla, Anantapur District with effect from 11.09.1992. Subsequently, the petitioner acquired M.Phil., Ph.D. qualifications while in service. The first respondent issued proceedings Rc.No.1736/B2/2000 dated 11.05.2000 sanctioning two

advance increments at Rs.250/- each in the scale of pay of Rs.5980-12100 with effect from 21.06.1999 allowing monetary benefit from first day of the following month ie. from 01.07.1999. The advance increments sanctioned above were to be treated as personal pay which does not reckon as pay for the purpose of D.A., and H.R.A. Accordingly, the petitioner has drawn the above advance increments. While things stood thus, the respondents have abruptly discontinued payment of two advance increments for possessing higher qualifications without any notice and also without issuing any cancellation orders. The first respondent was informed that the stagnation increments should be sanctioned to the eligible candidates as shown in this annual salary statement as per G.O.No.152, Fin. & Plg., (FW.PC-I) dated 04.11.2000 and he is requested to recover the additional qualification increments at Rs.250/- + Rs.250/- made to the petitioner vide proceedings Rc.No.1713/B3/2005 dated 25.08.2005 from the date of sanction. Hence, the present writ petition came to be filed.

A counter came to be filed by the respondents stating that initially the first respondent was pleased to sanction two advance increments @ Rs.250/- each p.m. with effect from 21.06.1999 and allowing monetary benefit from 01.07.1999 to the petitioner vide proceedings Rc.No.1736/B2/2000, dated 11.05.2000.

But subsequently, the Government took a policy decision to discontinue the advance increments with prospective effect which was being granted for possessing higher qualification and the scheme of FPI increments on recommendations of the PRC, 1999 vide Government Memo.No.35784/481/A2/PC-1/2001, dated 07.11.2001 and the two advance increments sanctioned to the petitioner were ordered to be recovered. It is further stated in the counter that in view of the government memo dated 07.11.2001 separate notice need not be issued in this regard for recovery of increments as it has already been mentioned in the proceedings 11.05.2000 stating that the increments now sanctioned, if found or detected to be erroneous at a later date, the same will be recovered in one lumpsum. It is further stated in the counter that disallowing the advance increments is a policy matter of Government and the first respondent has no other alternative than to implement the government orders as long as the government memo is in force.

A perusal of the material on record would show that the petitioner joined as Junior Lecturer in Physics in an aided junior college. While in service he acquired Ph.D. qualification. Having regard to the additional qualifications earned by him, the first respondent vide proceedings dated 11.05.2000 sanctioned two advance increment at Rs.250/- each with effect from 21.06.1999. Having sanctioned two increments at Rs.250/- the first

respondent herein abruptly cancelled the increments granted and ordered recovery of the amount in lumpsum.

On 27.02.2006 this Hon'ble Court while issuing Rule-nisi passed the following interim order:

“*Prima facie*, it appears that the impugned order dated 25.08.2005 was passed without notice to the petitioner. In that view of the matter, there shall be an interim direction as prayed for.”

In ***Md.Azamathulla Khan and others v. State of Andhra Pradesh and others***^[1] a Division bench of this Court while considering the advance increments on the ground of possession of higher qualifications relevant to the job requirements, held as under:

“Among the petitioners, those who are holding the posts of typists, copyists, examiners, record assistants and all posts lower rank than Junior Assistant in the High Court and the Subordinate Courts are not entitled to the benefit of advance increments and their claims accordingly are negatived. In respect of the other categories of employees, the writ petitions are allowed with a declaration that they are entitled to the benefit of advance increments under G.O.Ms.No.182, dated 17.07.1987. We direct that the respondents shall not, in consequence of the dismissal of the writ petitions in respect of the ineligible categories of employees typists, copyists, examiners, record assistants etc., recover the advance increments drawn by them during the pendency of the writ petitions as per the interim orders passed by this Court from time to time.”

Similarly in ***Salada Sankara Rao and others v. Secretary Government of Andhra Pradesh***^[2] a

Division Bench of this Court again considered G.O.Ms.No.182 dated 17.07.1987, wherein the claim was for advance increments in view of securing law degree. It was a case where the petitioners were promoted as Junior Assistants but posted as typists (equivalent to junior assistants) because of administrative exigencies, in view of their typewriting qualification. This Court held that they cannot be denied the benefit when they are in the posts equivalent to that of Junior Assistant and not lower than the posts of Junior Assistant.

As seen from the record, the case on hand is somewhat identical to the cases referred to above. In the instant case the petitioner joined as Junior Lecturer in Physics after obtaining a degree in M.Sc. Subsequently he obtained Ph.D. degree while working as Junior Lecturer. Having regards to the said circumstances the first respondent initially awarded two advance increments at Rs.250/- each with effect from 21.06.1999. Subsequently, without giving any notice and opportunity to explain, the impugned proceedings came to be issued ordering recovery of the amount. Since the order came to be passed without complying with the principles of natural justice and as the increments are already sanctioned, the order under challenge needs to be set aside.

Having regard to the facts and circumstances of the case and in view of the judgments referred to above, the

impugned order is set aside and accordingly the writ petition is allowed.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

22.02.2016

gkv

[\[1\]](#) (1996) 2 ALD 873 (D.B.)

[\[2\]](#) (1997) 1 ALD 465 (D.B.)