

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WVMP.No.1513 of 2012 in WP.No.7808 of 2012

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WP.No.7808 of 2012

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C.C.No.1160 of 2012

COMMON ORDER :

Heard the counsel for petitioner, and Sri J. Ugra Narasimha, counsel for respondents.

2. The petitioner has filed this Writ Petition seeking payment of salary and arrears from July, 2010 till 31.03.2012, for which period he worked as Lecturer-cum-Assistant Director in the Sri Krishnadevaraya University, Anantapur.

3. The 2nd respondent on 26.10.2008 invited applications from eligible candidates for appointment of Lecturer-cum-Assistant Directors and other posts under the University Grants Scheme of 'Centre for Study of Social Exclusion and Inclusive Policy'.

4. The petitioner herein applied for the said post and a call letter was issued on 15.05.2009 asking the petitioner to attend for interview with original degree certificates, marks memos and service certificates on 03.06.2009. The petitioner attended the interview and produced all the certificates required by the 2nd respondent.

5. On 11.06.2009, an appointment letter was issued to petitioner by the Registrar of 2nd respondent, pursuant to the proceedings of the

Executive Council dt.09.06.2009, temporarily appointing the petitioner as Lecturer-cum-Assistant Director. But the said order also stated that this appointment is against the post of Reader-cum-Deputy Director under UGC XIth Plan Scheme in the pay Scale of Rs.8,000-13,500 as per UGC norms till the completion of the Scheme.

6. The petitioner contends that from the date of his appointment he had done research by attending several seminars, lectures and also made publications with regard to the subject of Social Exclusion and Inclusive Policy, but inexplicably from July, 2010 the respondent nos.1 to 3 stopped paying salary to petitioner.

7. The petitioner contends that he filed W.P.No.15785 of 2011 challenging the action of 2nd respondent in not considering the appointment of petitioner as Lecturer-cum-Assistant Director against the post of Reader-cum-Deputy Director, as illegal and arbitrary; that the said Writ Petition was dismissed on that ground that petitioner cannot claim to be considered for the higher post of Reader-cum-Deputy Director, having applied and got selected for the post of Lecturer-cum-Assistant Director; and the petitioner cannot claim the salary for the post of Reader-cum-Deputy Director.

8. However, this Court made no observation as to the entitlement of petitioner to salary as Lecturer-cum-Assistant Director for the period after July, 2010.

9. The petitioner therefore filed the present Writ Petition seeking salaries for the period from July, 2010 till 31.03.2012.

10. In the counter-affidavit filed by 2nd respondent, it is admitted that three posts of Assistant Director-cum-Lecturer were sanctioned and were available which were advertised through advertisement dt.20.10.2008, and that the petitioner applied for the said post and was selected as Lecturer-cum-Assistant Director. However, it is stated that the appointment order wrongly mentioned that his appointment is against the post of Reader-cum-Deputy Director, that the UGC objected to this and refused to pay salary to petitioner and two others who were appointed against the post of Professor-cum-Director and Reader-cum-Deputy Director. The 2nd respondent further states that in view of this stand taken by the UGC, and since the Scheme was established by the UGC, salary of petitioner also has to be disbursed with the UGC; and in view of the refusal of the UGC to pay salaries to the petitioner, the petitioner cannot force the 2nd respondent to pay salaries.

11. On 21.03.2012, the Writ Petition was admitted and in WPMP.No.9893 of 2012 this Court directed that if the respondents have already extracted work from petitioner they shall pay arrears of salary to him till the date he worked in their organization within a period of four (04) weeks from the date of receipt of certified copy of the order.

12. WVMP.No.1513 of 2012 is filed to vacate the said order taking the above stand by 2nd respondent.

13. From the facts narrated above, it is clear that there existed vacancies for the post of Lecturer-cum-Assistant Director which were advertised by 2nd respondent through advertisement dt.20.10.2008; that the petitioner applied and was interviewed for the post of Assistant Director / Lecturer and he was given an appointment letter dt.11.06.2009 appointing him as Lecturer-cum-Assistant Director. It may be that the appointment letter mentioned that the appointment of petitioner is against the post of Reader-cum-Deputy Director in the pay scale of Rs.8,000-13,500. But, since the petitioner was held to be not entitled to the said post of Reader-cum-Deputy Director or to the pay scale of the said post in WP.No.15785 of 2011, that issue need not detain us. But the decision in the said Writ Petition cannot be construed as a decision throwing any doubt on the appointment of petitioner as Lecturer-cum-Assistant Director. Since vacancies existed for the said post and they were advertised for being filled up by the 2nd respondent and the petitioner was selected through a regular process selection for the said post, even if the UGC may not be liable to pay salaries to the petitioner for the work done by him as Lecturer-cum-Assistant Director, that does not absolve the 2nd respondent from liability of making payment of salary to petitioner having extracted the work from petitioner for the period July, 2010 to 31.03.2012. On the ground that the UGC has declined to pay salaries to petitioner as

Reader-cum-Deputy Director, the 2nd respondent cannot refuse to pay salary to petitioner for the work done by him as Lecturer-cum-Assistant Director.

14. Accordingly, the Writ Petition is allowed; and a direction is given to 2nd respondent to forthwith pay to the petitioner the salary due to him for the period July, 2010 to 31.03.2012, with interest at the rate of 9 per cent per annum from the date on which the payment is due till the date of payment, for the work done by him as Lecturer-cum-Assistant Director in the University. Consequently, WVMP.No.1513 of 2012 is dismissed. No order as to costs.

15. In view of the dismissal of the WVMP.No.1513 of 2012, and the direction therein to 2nd respondent to pay salaries forthwith to petitioner for the period July, 2010 to 31.03.2012, I do not deem it necessary to punish the respondents for Contempt of Court for disobeying the interim order dt.21.03.2012 in WPMP.No.9893 of 2012 in WP.No.7808 of 2012, pending Writ Petition. Accordingly, the Contempt Case is closed. No order as to costs.

16. As a sequel, miscellaneous petitions pending if any in this Writ Petition and Contempt Case, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 07-11-2016

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