

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.23902 of 2013
and
M.P.No.2 of 2013

R.Vasanth

.. Petitioner

vs.

1.The Principal Secretary to
Government of Tamilnadu,
Higher Education Department,
Fort St.George,
Chennai - 600 009.

2.The Commissioner of Technical Education,
Directorate of Technical Education,
Guindy, Chennai - 600 035.

3.The Principal,
Kamaraj Polytechnic College,
Pazhavilai, K.K.District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to Letter No.21658/C2/2012 dated 3.7.2012 issued by the 2nd respondent, quash the same.

For petitioner : Mr.R.Subramanian

For respondents 1 & 2 : Mr.V.Ayyathurai
Additional Advocate General
assisted by Mr.S.Navaneethan,
Additional Government Pleader

For 3rd respondent : Mr.N.Dilipkumar

ORDER

The case of the petitioner is that, initially, she was appointed as Instructor and later, she was appointed as Lecturer in the third respondent Polytechnic College and subsequently,

she was upgraded as Senior Lecturer and thereafter, she was designated as Head of the Department of Chemistry. Later, G.O.Ms.No.111, Higher Education (C2) Department, dated 25.5.2010 was issued by the Government of Tamil Nadu revising the Pay Scales to the Government and Government Aided Polytechnic College Teachers as per All India Council of Technical Education (AICTE) Notification in the Gazette of India dated 5.3.2010. Following the said Government Order, the third respondent College revised the Pay Scale of the petitioner and sent for approval to the second respondent. The second respondent vide Proceedings No.21658/C2/2012 dated 3.7.2012 informed the third respondent that as per Clause 16 of Appendix in G.O.Ms.No.111 dated 25.5.2010, the Teachers have to undergo 6 weeks Refresher Course for eligibility to be placed in the Higher Grade of Pay. Further, the second respondent directed the third respondent to re-fix the scale of pay and recover the excess amount. The said contention was communicated to the petitioner by the third respondent on 17.7.2012. Though the petitioner submitted the Certificates of having undergone Refresher Courses as required, there is no response from the respondents. Hence, the petitioner is challenging the Proceedings No.21658/C2/2012 dated 3.7.2012 issued by the 2nd respondent in the present Writ Petition.

2. Heard the learned counsel for the petitioner and the learned Additional Advocate General for respondents 1 and 2 and the learned counsel for the third respondent College.

3. Among other things, it is specifically submitted by the learned counsel for the petitioner that in an identical case, where a similarly placed Lecturer, namely, D.Subramanian, preferred a Writ Petition, viz., W.P.No.19592 of 2010 before this Court seeking a similar relief and this Court disposed of the said Writ Petition while setting aside the impugned order passed by the third respondent therein with a direction to the third respondent to get clarification from the second respondent therein as to the scope and applicability of the Clarification issued by the Government vide Letter No.5928/H1/2010-3 dated 13.8.2010, wherein it was clarified by the Government that "movement from AGP of Rs.7,000 to AGP of Rs.8,000/- may be allowed after completion of 5 years of service from the date of award of senior scale and not after 5 years period in the AGP of Rs.7,000/- shall be accepted subject to the other requirements laid down by the UGC or conditions laid down by the State Government/Universities". Subsequently, the All India Council for Technical Education vide Notification dated 4.1.2016 vide the Gazette of India dated 6.1.2016, at Page 28, clarified the same thing, which is as follows.

45	Clarification invited regarding counting of service period rendered in pre-revised Pay Scale (Rs.10000-15200) as a Lecturer (Senior Scale) prior to 1.1.2006 for the upward movement of Lecturer from AGP of Rs.7000 to AGP of Rs.8000 in Para a (ix) of Lecturer in Polytechnic in the AICTE Regulations, 2010.	The period specified in the AICTE Regulations, 2010 for upward movement of Lecturer from AGP of Rs.7000 to AGP of Rs.8000 shall be counted from the date of placement of Lecturer in the corresponding pre-revised Pay Scale.
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According to the learned counsel for the petitioner, in view of the clarification issued by the AICTE, the third respondent shall refix the AGP as stated in the clarification and the Refresher Course stated in Clause xvi of Appendix I in G.O.Ms.No.111, Higher Education (C2) Department, dated 25.5.2010 is only applicable when the incumbent seeks advancement to higher grade. As the petitioner was already placed in the Pay Scale of Rs.10000-15200 in the year 1999 after she was designated as a Senior Lecturer, Clause xvi of Appendix I of the aforesaid G.O. is not applicable to the petitioner.

4. Additional Counter Affidavit dated 21.02.2017 has been filed by the second respondent wherein it is stated that, based on the aforesaid clarification, by Letter No.1495/A3/2013, dated 9.3.2016, the second respondent has recommended for taking into account of the earlier services rendered by the teaching staff for Grade Pay movement from Rs.7,000/- to Rs.8,000/- and the same is under consideration before the first respondent.

5. The learned Additional Advocate General reiterating the said averments made in the Additional Counter Affidavit submitted that the second respondent is awaiting orders from the Government to implement the aforesaid clarification issued by the AICTE.

6. Taking into consideration of the above facts and recording the above said submission made by the learned Additional Advocate General, this Court directs the first respondent to pass appropriate orders in the light of the clarification Notification dated 6.1.2016 issued by the All India Council for Technical Education and Letter No.1495/A3/2013 dated 9.3.2016 addressed by the 2nd respondent, as expeditiously as possible, preferably, within a period of four months from the date of receipt of a copy of this order. By consent of the parties, the impugned order passed by the third respondent is kept in abeyance insofar as the petitioner is concerned till an order is passed by the first respondent as directed.

Thereafter, it is open to the third respondent management to consider the claim of the petitioner.

7. In result, the Writ Petition is disposed of, with the above direction. Connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

asvm

To

- 1.The Principal Secretary to
Government of Tamilnadu,
Higher Education Department,
Fort St.George,
Chennai - 600 009.
- 2.The Commissioner of Technical Education,
Directorate of Technical Education,
Guindy, Chennai - 600 025.

+2cc to Mr.R.Subramanian, Advocate, S.R.No.11809
+1cc to Mr.N.Dilip Kumar, Advocate, S.R.No.12511

W.P.No.23902 of 2013
and
M.P.No.2 of 2013

SKV (CO)
RS (10/05/2017)

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