

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.Nos.29642 to 29648 of 2013

R.Kandasamy .. Petitioner in W.P.No.29642 of 2013
D.Padmanaban .. Petitioner in W.P.No.29643 of 2013
Subramanian.T .. Petitioner in W.P.No.29644 of 2013
S.Eswaran .. Petitioner in W.P.No.29645 of 2013
N.Raja Manickam .. Petitioner in W.P.No.29646 of 2013
V.Jayalakshmi .. Petitioner in W.P.No.29647 of 2013
M.Ramathal .. Petitioner in W.P.No.29648 of 2013

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 - 600 025.
- 3.The Principal,
Arulmigu Palaniandavar Polytechnic College,
Dindigul Road,
Palani - 624601,
Dindigul District. .. Respondents

Writ Petition Nos.29642 to 29646 of 2013 filed under Article 226 of the Constitution of India to issue Writ of Mandamus directing the first respondent to issue clarification to G.O.Ms.No.111 dated 25.5.2010 as issued in the Serial No.3 of the Lr.No.5928/H1/2010 dated 13.8.2010 w.r.to G.O.Ms.No.350 dated 9.9.2009 and refix the petitioner in a proper scale of pay in Pay Band 3 with AGP of Rs.8000 designating as Lecturer (Selection Grade) with effect from 01.01.2006 and fix in Pay Band 4 with AGP of Rs.9000 with effect from 1.1.2009 with all the consequential monetary benefits.

Writ Petition No.29647 of 2013 filed under Article 226 of the Constitution of India to issue Writ of Mandamus directing the first respondent to issue clarification to G.O.Ms.No.111 dated 25.5.2010 as issued in the Serial No.3 of the Lr.No.5928/H1/2010 dated 13.8.2010 w.r.to G.O.Ms.No.350 dated 9.9.2009 and refix the petitioner in a proper scale of pay in Pay Band 3 with AGP of Rs.8000 designating as Lecturer (Selection Grade) with effect from 17.10.2007 and fix in Pay Band 4 with AGP of Rs.9000 with effect from 17.10.2010 with all the consequential monetary benefits.

Writ Petition No.29648 of 2013 filed under Article 226 of the Constitution of India to issue Writ of Mandamus directing the first respondent to issue clarification to G.O.Ms.No.111 dated 25.5.2010 as issued in the Serial No.3 of the Lr.No.5928/H1/2010 dated 13.8.2010 w.r.to G.O.Ms.No.350 dated 9.9.2009 and refix the petitioner in a proper scale of pay in Pay Band 3 with AGP of Rs.8000 designating as Lecturer (Selection Grade) with effect from 19.5.2007 and fix in Pay Band 4 with AGP of Rs.9000 with effect from 19.5.2010 with all the consequential monetary benefits.

For petitioner in all
the above WPs : Mr.Francis Xavier Arul Raj,
Senior Counsel,
for Mr.D.Subramaniyan

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

For 3rd respondent
in all the above WPs: No appearance

COMMON ORDER

The case of the petitioners in these Writ Petitions is that they were appointed as Lecturers in the third respondent Polytechnic College and subsequently, they were upgraded as Senior Lecturers. Later, G.O.Ms.No.111 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. As per this Government Order, the revised Pay Scale would take notional effect from 01.01.2006 and monetary benefit from 01.01.2007. The Academic Grade Pay of Rs.7,000/- was the corresponding AGP to the post of Senior Lecturers and the pre-revised pay structure corresponding to the said post. In pursuance of the aforesaid Government Order, the 3rd respondent-Principal has fixed the Academic Grade Pay of Rs.7,000/- to all the petitioners with effect from 01.01.2006, irrespective of the

number of years of service rendered as Senior Lecturers prior to 01.01.2006. The petitioners made requests to the respondents to refix the Academic Grade Pay at Rs.8,000/- as and when they complete 5 years or more than 5 years of service on or after 01.01.2006 counting the period of service from the date of award of corresponding pre-revised Senior Scale of Rs.10,000-325-15200 and also to fix the AGP of Rs.9,000/- after the completion of 3 years in the AGP of Rs.8,000/- designating as Lecturer (Selection Grade). These requests were rejected in the impugned order passed by the third respondent management. Hence, the present Writ Petitions have been filed before this Court.

2. Heard the learned Senior Counsel for the petitioners and the learned Additional Advocate General for respondents 1 and 2.

3. Among other things, it is specifically submitted by the learned learned Senior Counsel for the petitioners 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 similar relief as sought for in the present Writ Petitions 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 Senior Counsel for the petitioners, in view of the clarification issued by the AICTE, the third respondent shall refix the AGP as stated in the clarification.

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 College is kept in abeyance till an order is passed by the first respondent as directed. Thereafter, it is open to the petitioners to approach the third respondent for necessary claim.

7. In result, the Writ Petitions are disposed of, with the above direction. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

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.

+3 cc's to M/s.D.Subramanian,advocate,sr.12021
+1 cc to Govt.Pleader,sr.12583.

rk(co)
krd 4/5

W.P.Nos.29642 to 29648 of 2013