

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.27263 of 2012 & W.P.No.8158 of 2016

COMMON ORDER:

In both these cases common questions of law arise for consideration. Therefore they are being disposed of by this Common Order.

2. All the petitioners in both these Writ Petitions have retired as professors of the Acharya N.G.Ranga Agricultural University (for short 'the University'), the 1st respondent in W.P.27263 of 2012 and the sole respondent in W.P.No.8158 of 2016. The 2nd respondent in W.P.27263 of 2012 is the Government of Andhra Pradesh. Some of the petitioners have retired before 01-01-2009 and some have retired after 01-01-2009.

3. All of them seek placement in the 10% of posts of Professors who are entitled to higher Academic Grade Pay (AGP) of Rs.12000/- (also called Stage-6 benefit) introduced as a measure of Career Advancement by the University Grants Commission (4th respondent in W.P.No.27263 of 2012) and which has been implemented by the Government of Andhra Pradesh vide G.O.Ms.No.14 Higher Education (UE.II) Department dt.20-02-2010 and seek consequent payment of arrears of pay apart from re-fixation of their pension.

4. All the petitioners admittedly worked for more than 10 years in the University and claim to have good number of publications to their credit. After retirement they were sanctioned pensionary benefits as per the Revised UGC Pay Scales, 2006.

5. The decision to implement with effect from 01-01-2006 the UGC Revised Pay Scales, 2006 was taken by the then Government of Andhra Pradesh vide G.O.Ms.No.14 dt.20-02-2010.

6. Sub-clause (xvii) of Clause (a) of Appendix II to G.O.Ms.No.14 dt.20-02-2010 introduced what was called Stage-6 benefit i.e., grant of higher AGP of Rs.12,000/- to 10% of persons holding posts of Professors subject to norms mentioned therein. It states as under:

“(xvii): Ten percent of the posts of Professors in a university shall be in the higher AGP of Rs.12000, however, teachers promoted to the posts with higher AGP of Rs.12000, shall continue to be designated as Professor. Eligibility for elevation as a Professor in the higher Academic Grade Pay of Rs.12000, shall be a minimum of 10 years of teaching and research experience as professor either in the pre-revised scale of Professor’s Pay of Rs.16400- 22400 or the revised scale of Pay Band IV of Professor with AGP of Rs.10,000/- on satisfying the required API score as per Tables I and II through the PBAS methodology stipulated in these Regulations through a duly constituted Expert committee; As this AGP elevation for Professor is applicable to only university departments, additional credentials are to be evidenced by (a) post-doctoral research outputs of high standard; (b) awards /honours / recognitions / patents & IPR on products & processes developed / technology transfer achieved; and (c) Additional research degrees like D.Sc., D.Litt., LL.D etc., The selection is to be conducted by the university by receiving PBAS

proformas from eligible professors based on seniority, three times in number of the available vacancies. In case the number of candidates available is less than three times the number of vacancies, the zone of consideration will be limited to the actual number of candidates available. The assessment process shall be through an Expert-Committee evaluation of all credentials submitted along with duly filled PBAS proforma by eligible Professors as stipulated in Table-II(A) of Appendix-III for teachers in University departments. No separate interview need to be conducted for this category.”

7. The University also decided to implement UGC Revised Pay Scales, 2006 and G.O.Ms.No.14 dt.20-02-2010 by proceedings No.1950/BG/A2/2010 dt.02-03-2010.

8. The University then framed ANGRAU (Career Advancement Scheme) Regulations, 2011 (herein after referred to as “CAS Regulations, 2011”) vide proceedings No.2007/Ser.IV/A2/2011 dt.24-12-2011. Though initially these proceedings stated that these Regulations would come into force w.e.f. 01-01-2006, subsequently vide Memo No.13752/Ser.IV/A2/2011 dt.23-01-2012, these Regulations were amended stating that they would be implemented w.e.f. 01-01-2009.

9. A decision was taken by the Deans and Directors Committee of the University in its meeting held on 20-04-2011 to call for applications from the eligible teachers/scientists for extending Stage-6 benefit i.e., grant of higher AGP of Rs.12,000/- in the Revised UGC Pay Scales of 2006 as on 30-04-2011.

10. Applications were then called for giving the benefit to 10% of the positions of Professors in the University who are entitled to AGP of Rs.12000/- and 17 persons, *other than the petitioners*, were given the benefit of AGP of Rs.12000/- in the Revised UGC Pay Scales vide proceedings No.242/SER.IV/A2/2011 dt.31.05.2011.

11. When the President of the Retired Teachers Association of the University made representation to the University on 24-03-2012 and 28-04-2012 for giving of Stage-6 benefit to the petitioners and other retired Professors, the Registrar of the University vide proceedings dt.14-05-2012 rejected it, stating that, to be eligible for grant of the said benefit, they should be on the rolls and in active service of the University on the date of consideration by the Selection Committee.

WP.No.27263 of 2012 :

12. Petitioners have challenged the same in W.P.No.27263 of 2012 and contend that the University ought to treat all the petitioners as Senior Professors with higher AGP band of Rs.12000/- against 10% of the Professor posts from the date of their eligibility based on the Performance Based Appraisal System (PBAS) and Academic Performance Indicator (API), and consequently the University should be directed to give Stage-6 benefit of the higher AGP of Rs.12000/- to petitioners including arrears of pay with all consequential benefits

and that it should also re-fix their pensionary benefits based on the higher AGP of Rs.12000/-.

13. They contend that the object of placing the Professor in higher AGP is to encourage and recognize the meritorious services of Senior Professors and that in spite of a specific direction in G.O.Ms.No.14 Higher Education (UE.II) Department dt.20.02.2010 directing all Universities to implement the UGC Revised Pay Scales, 2006 to the teaching staff within three months, this time frame was ignored by the University, and it framed regulations governing Career Advancement Scheme called ANGRAU Teachers (Career Advancement Scheme) Regulations, 2011 implementing the said G.O. vide proceedings No.2007/SER.IV/A2/2011 dt.24.12.2011 long afterwards and thus acted arbitrarily.

14. Prior to framing of the said regulations, though the University had issued orders implementing the revised UGC pay scales 2006 vide proceedings No.1950/BG/A2/2010 dt.02.03.2010 with effect from 01.01.2006, petitioners contend that the aspect with regard to fixing 10% of posts of Professor in the University in higher AGP of Rs.12,000/- was not taken up till May, 2011.

15. It is the contention of the petitioners that the proceedings No.242/SER.IV/A.2/2011 dt.31.05.2011 giving the said benefit to the 17 Professors is in violation of rules and only to favour one of them who were retiring, this was done and similar benefit was denied to the

petitioners even though they were eligible for placement in the higher pay band of Senior Professor. In particular, it is stated that the said order was issued in a hurry on the date of retirement of the then Registrar Dr. L. Jalapathi Rao in order to favour him in getting additional pension and that the said individual issued the said proceeding awarding Rs.12,000/- AGP to himself. It is stated that persons holding non-teaching posts like Registrar were not entitled to the said benefit but were given the same. It is further stated that subsequently also on 29.02.2012 and 23.11.2013, on the date of retirement of some individuals, orders were issued awarding Rs.12,000/- AGP to them only to show undue favour to them ignoring the claims of the petitioners.

16. It is the contention of the petitioners that they had rendered service with the University as on 01-01-2006 and subsequent thereto also till their respective dates of retirement and they fulfilled the norms prescribed in sub-clause (xvii) of Clause (a) of Appendix II to G.O.Ms.No.14 dt.20-02-2010 and so, they ought to be given this benefit of AGP band of Rs.12000/-.

17. Petitioners contend that the stand of the University in the impugned proceedings LR.No.9615/SER.IV/A1/2012 dt.14.05.2012 that only persons in active service would be considered for award of higher AGP of Rs.12,000/- is contrary to law; that the University cannot treat placement of a Senior Professor in higher AGP band of Rs.12,000/- as if it is a promotion; that the UGC Revised Pay Scales,

2006 never stated that placing a Professor in higher AGP band of Rs.12,000/- is to be treated as promotion; this is because the post of Professor is the highest post to which a member of teaching faculty can reach; and so the University is obligated to consider all those Professors who were in service as on 01.01.2006 for conferment of higher AGP of Rs.12,000/- against the 10% of the Professor posts.

18. It is further contended that G.O.Ms.No.14 dt.20.02.2010 itself stated that if there are any anomalies in implementation of the revised Pay Scales of 2006, they should be brought to the notice of the Government for clarification; and the University should have brought to the notice of the Government the plea of the petitioners, who retired between 01.01.2006 and 31.12.2008, for conferment of higher AGP band in the cadre of Professor against 10% quota of Professor posts; and without doing so it ought not to have rejected by the impugned proceedings dt.14.05.2012 their claim for the said benefit.

19. They therefore prayed that the University be directed to place them notionally the Senior Professor higher AGP band of Rs.12,000/- from the date of their eligibility based on Performance Based Appraisal System (PBAS) and Academic Performance Indicator (API) and fix their pay notionally and pay arrears of pay apart from re-fixing their pensionary benefits based on the revised pay with all consequential benefits.

WP.No.8158 of 2016 :

20. On 27.12.2013, a Circular Memo No.21109/SER.IV/A2/2013 was issued by the Registrar of the University stating that Revised UGC pay scales of 2006 had been implemented in the University vide Proceedings dt.02.03.2010; that retired professors / principal scientists who have completed 10 years of service in that cadre and not awarded Stage-6 (Professor) in the Revised UGC pay scale of 2006 had requested the University to consider their case to elevate the pay scales in the higher AGP of Rs.12,000/- from Stage-5 to Stage-6; that this request was placed before the Board of Management of the University for consideration; and the *Board not only resolved to approve the proposal for considering the request of the retired professors who retired after 01.01.2009 for award of Stage-6 (completed 10 years in the Professor cadre) but also to invite applications for further process and to address the State Government's Higher Education Department for award of Stage-6 for the professors who retired during the period 01.01.2006 to 31.12.2008 and who had completed 10 years of service in that cadre.*

21. Petitioners filed WP.No.8158 of 2016 contending that they had submitted applications pursuant to the above circular memo, but the University is unduly delaying the matter and not conferring Stage-6 benefit of higher AGP of Rs.12,000/- to them, that this inaction on the part of the University is arbitrary, illegal and in violation of Article 14 and 16 of the Constitution of India, and the

petitioners, who are all senior citizens, are being put to irreparable loss and hardship. They therefore sought a declaration that they are fully eligible and qualified to be extended Stage-6 benefit of higher AGP of Rs.12,000/- pursuant to the said circular and to direct the University to extend the said benefit to all of them with consequential benefits.

22. It was pointed out by the petitioners that on 31.12.2013 Board of Management of the University granted approval for four batches of Professors selected in May, 2011, February, 2012, November, 2013 and May, 2014 for being given benefit of Stage-6 arbitrarily ignoring the case of the petitioners, and the first batch in particular was conferred the benefit even prior to 24.12.2011 when the ANGRAU Teachers (Career Advancement Scheme) Regulations, 2011 were framed by the University.

23. The petitioners further contend that prior to G.O.Ms.No.14 dt.20.02.2010, there was no provision for award of AGP of Rs.12,000/- to Senior Professors, the regulations referred to above came into force from 01.01.2006 and merely because the petitioners had retired from service, they cannot be denied the said benefit and whenever the expert committee mentioned in para (xvii) of Appendix II of G.O.Ms.No.14 dt.20.02.2010 is constituted and evaluates the credentials of the petitioners, they should be awarded the benefit.

THE CONTENTIONS OF THE UNIVERSITY :

24. The University filed a counter-affidavit admitting that it adopted Revised UGC Pay Scales of 2006 for teachers as per G.O.Ms.No.14, Higher Education (UE.II) Department, dt.20.02.2010, through proceedings No.1950/BG/A2/2010 dt.02.03.2010. It admitted that in the said G.O., there is a package of Career Advancement Scheme (CAS) to the teaching staff and that as per para (xvii) of Appendix II of the said G.O.Ms.No.14, 10% of posts of Professor would be entitled to higher AGP of Rs.12,000/-, but they shall be continued to be designated as Professor only; that eligibility for this is 10 years of teaching and research experience as Professor; and the candidate must satisfy the required API score as per Table I and Table II through PBAS methodology stipulated in the regulations through a duly constituted expert committee.

25. It is stated that the Board of Management was the competent authority to appoint committees but it was not in existence since March, 2010; that the Deans and Directors' Committee in a meeting held on 20.04.2011 resolved to call for applications from eligible teachers / scientists for extending the CAS benefits in the Revised UGC Pay Scales of 2006 as on 30.04.2011; applications were called for from eligible teachers / scientists who were in service for extending the benefit of higher AGP, but applications of retired teachers / professors like the petitioners have not been considered on

the ground that they were not in service on the date of evaluation of the applications. Reliance is placed on para no.6.3.6 of the Annexure-II to G.O.Ms.No.14 dt.20.02.2010 which states as under :

“6.3.6. The incumbent teacher must be on the role and active service of the Universities / Colleges on the date of consideration by the Selection Committee for Selection / CAS Promotion.”

26. As regards the benefit of higher AGP of Rs.12,000/- being given to Registrar, it is contended that for the posts of Registrar, Comptroller (Finance Officer) and Controller of Examinations, if persons came from teaching / research / extension scheme, their scale of pay on superannuation were required to be protected and that was why the Registrar, who was also a Senior Professor, was given the higher AGP of Rs.12,000/-. It is stated that expert committee was constituted for giving the said benefit consisting of Vice-Chancellor and three experts of the rank of Dean / Director (working or retired) and depending on their convenience, meetings were convened from time to time to extend Stage 6 benefits under CAS to the teachers of the University.

27. It is stated that the Career Advancement Scheme is a package of promotion in different stages as follows :

“Stage 2 & 3 : An Assistant Professor / Scientist with experience of 5 years / 4 years with Ph.D. will be eligible duly applying in Performance Based Applied System (PBAS) and Academic Performance Indicator (API). The Screening Cum Evaluation Committee on verification / evaluation of API score secured by the candidate through the ‘PBAS’ methodology designed by the respective

University based on these Regulations and as per the minimum requirement specified in Tables II & III for each of the cadre of Assistant Professor, shall recommend to the Board of Management of the University about the suitability of the promotion of the candidate(s) under CAS for implementation.

Stage 4 & 5 : The Assistant Professor / Associate Professor who completed the required service will submit the application in Performance Based Applied System (PBAS) and Academic Performance Indicator (API). They have to face the interview before the Selection Committee, the Committee wherein the minutes recorded along with scoring proforma and recommendation made on the basis of merit and shall recommend to the Board of Management of the University about the suitability of the promotion of the candidate(s) under CAS for implementation.

Stage 6 : 10% of the Professors in the University on completion of 10 years of service in the Professor cadre with teaching and research experience either in the pre-revised scale of Professor's pay of Rs.16,400-22,400 on the revised scale of Pay Band IV of Professor with AGP of Rs.10,000/- on satisfying the required API score as per Tables I and II through the PBAS methodology stipulated in these Regulations through a duly constituted Expert Committee. The Selection is to be conducted by the University by receiving PBAS proformas from eligible Professors based on seniority, three times in number of the available vacancies."

28. According to the respondents, the CAS promotion is a personal promotion to the incumbent teacher holding a substantive sanctioned post, and on superannuation of the individual incumbent, the said post will again revert back to the original cadre and for this reason the incumbent teacher, to be eligible for the said benefit, must be on the roll and in active service on the date of consideration by the selection committee. Since the petitioners had retired between 2009-2011, and as the benefit of Stage-6 was implemented by the

University for the first time in 2011, by which time they retired and they were not in service by the date of consideration of their applications by the expert committee, they are not eligible for the Stage-6 benefit conferment/ CAS promotion.

29. The counsel for the University also contended that the petitioners are guilty of laches and had not approached the Court immediately for relief and on that ground the Writ Petition be rejected.

30. According to him, though Resolution No.9405 dt.01.08.2013 was passed by the Board of Management to consider the request of retired professors who retired after 01.01.2009 also for award of Stage-6 higher AGP benefit, such a decision was beyond the competence of the Board of Management as it was contrary to G.O.Ms.No.14 dt.20.02.2010 adopted by the University on 21.03.2010 and in particular Clause 6.3.6 thereof referred to above and that no *writ of mandamus* can be issued to implement such resolution.

31. Alternatively, he contended that assuming that the resolution is valid, it was conditional on the Government's approval under Section 35-B of the ANGRAU Act, 1963 and that there is no such approval specifically.

32. He stated that admittedly there is no Stage-6 benefit to Professors prior to 01.01.2009, that it was given for the first time vide

G.O.Ms.No.14 dt.20.02.2010 and so petitioners who retired prior to that date cannot be granted any relief.

33. No counter affidavit was filed by the Government of Andhra Pradesh, the 2nd respondent in W.P.No.27623 of 2012. No arguments were advanced on it's behalf.

Reply argument of counsel for petitioner :

34. The counsel for petitioners contended once a decision was taken by the Board of Management in Resolution No.9405 dt.01.08.2013 to consider the request of retired professors also, the said decision being the decision of the highest authority of the University, binds the University and the University is estopped from contending that the petitioners, who have retired from service as Professors, are not eligible for consideration.

35. Reference is also made to UGC Regulations, 2010 (No.F.3-1/2009 dt.30.06.2010, UGC New Delhi) and in particular Clause 6.3.1 permitting consideration of all persons who fulfill criteria mentioned in the said regulations as on 31.12.2008 to be considered for promotion even after that date.

36. It is further pointed out that for giving benefit of Stage-6 to Professors, even according to G.O.Ms.No.14 dt.20.02.2010, there is no selection committee and there is only an expert committee; the selection committee would apply only for other posts and not to

conferment of Stage-6 benefit to Senior Professors like the petitioners which are specifically governed by Clause (xvii) of Annexure – II to the said G.O.; and that Clause 6.3.6, relied upon by the University, does not apply for grant of Stage-6 benefit to Senior Professors. They contend that the said Clause relates to and is applicable to movement from Assistant Professor post with AGP of Rs.8,000/- to Associate Professor post, and from Associate Professor post to post of Professor, but not to Stage-6 benefit conferment on Senior Professors. They contend that Career Advancement Scheme of Assistant Professors from one AGP to the higher AGP is to be conducted by a “screening-cum-evaluation committee” as mentioned in Clause 6.3.1, but when it comes to conferment of Stage-6 to Senior Professors from the lower grade of stage-5, it is only by a process of evaluation / peer evaluation of credentials of eligible candidates by an *expert committee*. It is stated that only where there is a change of designation and there is a requirement of interview, a selection committee is necessary but not when there is no change in designation as in Stage-6 benefit conferment of higher AGP of Rs.12,000/- when there is no separate interview specified.

37. It is submitted that lapses on the part of the University administration to give benefit to retired persons such as the petitioners, while they are in service, cannot defeat the petitioners’ right. It is pointed out that the University had conducted Stage-6

promotions on four occasions and in all cases, candidates were considered and given the said benefit with retrospective effect.

THE POINT FOR CONSIDERATION

38. From the above pleadings and contentions of the parties, the following point arises for consideration :

“Whether the petitioners are entitled to conferment of Stage-6 benefit i.e., higher AGP of Rs.12,000/- as part of Career Advancement Scheme notified vide G.O.Ms.No.14 dt.20.02.2010 and the ANGRAU Teachers’ (Career Advancement Scheme) Regulations, 2011 even though they have retired from service ?”

THE CONSIDERATION BY THE COURT

39. From the facts narrated above, it is clear that the petitioners are retired Professors who had worked in the University and had put in more than 10 years of service prior to their respective dates of retirement. Some of them had retired before 01.01.2009 and some have retired after 01.01.2009.

40. It is not in dispute that Revised UGC Pay Scales of 2006 were directed to be implemented with effect from 01.01.2006 by the Government of Andhra Pradesh vide G.O.Ms.No.14 Higher Education (UE.II) Department dt.20.02.2010 and Universities were directed to implement the same within three months from this G.O.

41. Appendix – II dealt with the Career Advancement Scheme for teachers and equivalent positions, i.e., Assistant

Professors, Associate Professors and Professors in the colleges and universities.

42. A reading of Appendix – II suggests that the UGC provided for change of designation of persons entering teaching profession in universities and colleges as Assistant Professors, fixed different AGPs depending upon their qualification and service; fixed higher pay band to Associate Professors as well as higher AGP; provided for movement of Assistant Professors in the AGP of Rs.8,000/- on completion of three years of teaching in that AGP to the pay band and AGP of Associate Professor as well as his re-designation as Associate Professor; for movement of Associate Professors on completion of three years of service in the AGP of Rs.9,000/- and on possessing a Ph.D. Degree in the relevant discipline as Professors with higher AGP of Rs.10,000/-.

43. Para 5.0.0 stated that the UGC had evolved guidelines on (a) constitution of selection committees for selection of Assistant Professor, Associate Professor, Professor, etc., and (b) specified selection procedures for direct recruitment and Career Advancement Scheme regulations.

44. But within the category of Professors, Clause (xvii) provided for conferment of higher AGP of Rs.12,000/- to only 10% of posts of Professors who will continue to hold the same designation but with higher AGP if they have minimum 10 years of teaching and

research experience as Professor either in the pre-revised Scale of Professor's pay of Rs.16,400/- to Rs.22,400/- or the revised scale of pay band IV of Professor with AGP of Rs.10,000/-. But this was not automatic, but only on satisfying the required API score as per Tables I and II through PBAS methodology stipulated in the regulations through *a duly constituted expert committee*. No separate interview was to be conducted.

45. Thus, as regards conferment of CAS benefit to Assistant Professors to move from AGP of Rs.6,000/- to AGP of Rs.7,000/- or from AGP of Rs.7,000/- to AGP of Rs.8,000/- and for re-designation as Associate Professors; to move from Associate Professor post with AGP of Rs.9,000/- to post of Professors up to the AGP of Rs.10,000/-, Clause 5.0.0 of Appendix -III to G.O.Ms.No.14 dt.20.02.2010 contemplated *Selection Committees*. But, there is no such selection committee for conferment of benefit of higher AGP of Rs.12,000/- to the senior-most 10% quota Professors in Clause (xvii) and as stated above it was to be by *expert committee*.

46. Relying on Clause 6.3.6, the University contends that retired Professors cannot be considered for conferment of Stage-6 benefit i.e., AGP of Rs.12,000/- unless they are in service on the date of consideration for such conferment by the concerned committee. The said Clause 6.3.6 states :

“6.3.6. The incumbent teacher must be on the role and active service of the Universities / Colleges on the date of consideration by the Selection Committee for Selection / CAS Promotion.”

47. The counsel for the petitioners strenuously contended that the word used in Clause 6.3.6 is “selection committee” and not “expert committee” and therefore Clause 6.3.6 would be attracted only for conferment of CAS benefit from Assistant Professor to Associate Professor or from Associate Professor to post of Professor where selection committees are involved as per Clause 5.0.0 of Annexure-III; and the said Clause will not apply to conferment of Stage-6 i.e., AGP of Rs.12,000/- benefit to 10% of the senior-most Professors. I agree with this submission because if the UGC had intended that such benefit should be given only to persons in service as on the date of their consideration, it would have used the word “expert committee” also in Clause 6.3.6. The fact that it has not done so indicates that such was not the intention of the UGC.

48. The counsel for the University sought to rely on the word ‘CAS Promotion’ mentioned in Clause 6.3.6 and sought to contend that giving higher AGP to senior-most Professors is akin to promotion. This contention is without any merit because admittedly post of Professor is the highest post to which a teacher in a University can aspire for. The normal understanding of a promotion is that an incumbent goes to a higher post with higher pay and different responsibilities or responsibilities of higher magnitude. But such a thing does not happen in the case of conferment of Stage-6 benefit of

giving of higher AGP to 10% of the senior-most Professors after evaluation by the expert committee. Clause (xvii) of Annexure II of G.O.Ms.No.14 dt.20.2.2010 states that 10% of the senior-most Professors who have put in 10 years of service get only a higher AGP, but there is no change in their designation or in their responsibilities.

49. It is unfortunate that while the Revised UGC Pay Scales, 2006 were directed by the State Government in G.O.Ms.No.14 Higher Education (UE.II) Department dt.20.02.2010 to be implemented with effect from 01.01.2006, the University dragged its feet and framed the ANGRAU Teachers' (Career Advancement Scheme) Regulations, 2011 only on 24.12.2011 beyond the three-month period stipulated in para.13 of the G.O.Ms.No.14 and subsequently through a Memo No.13752/SER.IV/A2/2011 dt.23.01.2012 shifted the date of implementation of the Career Advancement Scheme benefits from 01.01.2006 to 01.01.2009. In **Osmania University Teachers' Association (OUTA) v. Union of India**¹, a Division Bench of this Court held that regulations framed by the University Grants Commission under the UGC Act are binding on the Universities and even the State Legislature cannot do anything contrary to the said regulations. There is no justification by the University of its above conduct in the counter-affidavits filed by it in both Writ Petitions. Therefore, these actions on the part of the University cannot be said to be valid in law.

¹ 2002 (4) ALT 682

50. Merely because the State Government delayed in implementing this benefit till 20.2.2010 and University delayed it further till May, 2011 or much later, persons in service as on 1.1.2006 like petitioners cannot be denied consideration for the said benefit. The petitioners cannot be made to suffer on this count and University cannot be allowed to contend that it can do the Stage -6 conferment exercise as and when it chooses, and petitioners should suffer for it's inaction. It cannot be allowed to take advantage of it's own wrong.

51. Therefore, the contention of respondents that petitioners had retired from service and therefore as per Clause 6.3.6 of Annexure-III, they are not entitled to be considered for conferment of Stage-6 benefit i.e., the higher AGP of Rs.12,000/- is rejected.

52. Therefore, para 9(iv) of the ANGRAU Teachers' (Career Advancement Scheme) Regulations, 2011 insofar as it states that retired teachers in the cadre of Professor are not eligible for extension of CAS benefit as per UGC pay scales of 2006, is not valid. Likewise, proceedings bearing No.Lr.9615/SER.IV/A1/2012 dt.14.05.2012 of the University is also illegal and is set aside.

53. Consequently, resolution No.9405 dt.01.08.2013 of the Board of Management of the University resolving to consider the request of retired Professors, who retired after 01.01.2009 for award of Stage-6 *and* to address the Government for award of Stage-6 for Professors who retired during the period from 01.01.2006 to

31.12.2008 and who completed 10 years of service in that cadre, and the consequential circular Memo No.21109/SER.IV/A2/2013 dt.27.12.2013, cannot be found fault with.

54. This decision is in tune with the interpretation placed by this Court on Clause 6.3.6.

55. It is not in dispute that the erstwhile State of Andhra Pradesh has been bifurcated into the new State of Telangana and the residuary State of Andhra Pradesh as per the Andhra Pradesh Reorganisation Act, 2014.

56. The Prof. Jayashankar Telangana Agricultural University was established as per the Telangana Govt's G.O. Ms No.7, Agricultural and Cooperation (Agri III) Department, Govt. of Telangana dated 31-07-2014 adapting the ANGRAU Act, 1963 as "The ANGRAU Act of 1963 (Telangana Adaptation) order, 2014". However, there has been admittedly no division of staff between the Prof. Jayashankar Telangana Agricultural University and the Prof. Jayashankar Telangana Agricultural University.

57. These being events having occurred pending disposal of W.P.No.27263 of 2012, the Prof. Jayashankar Telangana Agricultural University, being the successor of the Acharya N.G.Ranga Agricultural University in the State of Telangana, and the States of Telangana and Andhra Pradesh, being the successors to the erstwhile combined state of Andhra Pradesh are all bound by this order in

regard to respective petitioners who are allotted to one or the other of the said Universities in either of the said States.

58. That apart, it is not in dispute that the benefit of Stage-6 of higher AGP of Rs.12,000/- to senior Professors who completed 10 years of service (10% quota) was introduced for the first time under the Revised UGC Pay Scales, 2006 which were implemented by the University vide proceedings No.2007/SER.IV/A2/2011 dt.24.12.2011 as directed in G.O.Ms.No.14 dt.20.02.2010 with effect from 01.01.2009 (initially the effective date was mentioned as 01.01.2006, but later by Memo No.13752/SER.IV/A2/2011 dt.23.01.2012, the effective date for implementation was changed to 01.01.2009 by the University). Therefore, such of the petitioners who retired as Professors from the University after 01.01.2009 are, as a matter of right, entitled to be considered for conferment of the benefit of Stage-6, i.e., higher AGP of Rs.12,000/- since they fulfill the minimum service of 10 years in the cadre of Professor provided the expert committee constituted under the Revised UGC guidelines / G.O.Ms.No.14 dt.20.02.2010 finds them eligible to get the said benefit.

59. Coming to the case of petitioners who had retired prior to 01.01.2009, since the ANGRAU Teachers' (Career Advancement Scheme) Regulations, 2011 are made effective only from 01.01.2009 as mentioned above and not from 01.01.2006, keeping in mind the fact that G.O.Ms.No.14 dt.20.02.2010 itself provided in para no.17

that anomalies, if any, in the implementation of the scheme should be brought to the notice of the Government for clarification, the Board of Management of the University in its resolution No.9405 dt.01.08.2013 had rightly decided to address the Government for award of Stage-6 for Professors who retired during the period from 01.01.2006 to 31.12.2008. Therefore, in case the respective State Governments agree for consideration of cases of such of those petitioners who retired between 01.01.2006 and 31.12.2008 for conferment of Stage-6 benefit subject to evaluation by the expert committee, then the University shall also consider their cases for conferment of such benefits as per law.

60. I therefore hold that the stand of the University that the resolution No.9405 dt.01.08.2013 is void *ab initio* or that it cannot be enforced by a *Writ of Mandamus* is without any merit and it is rejected.

61. The further contention of the University that there ought to be approval for the said resolution by the State Government under Section 35-B of the ANGRAU Act, 1963, is equally untenable. The said provision no doubt contemplates that in respect of financial matters of the University, the State Government should give prior written approval, but when the State Government itself in G.O.Ms.No.14 dt.20.02.2010 permitted conferment of Stage-6 benefit to senior Professors having ten years service to the extent of 10%, as regards petitioners, there is no need to again seek prior approval.

62. Lastly, the plea based on laches is also equally untenable for the reason that no third-party rights intervened and the benefit itself flows from the Revised UGC Pay Scales, 2006 directed to be implemented by the State Government vide G.O.Ms.No.14 dt.20.02.2010.

63. Accordingly, the Writ Petitions are allowed; proceedings bearing No.Lr.9615/SER.IV/A1/2012 dt.14.05.2012 of the University is illegal and is set aside; resolution No.9405 dt.01.08.2013 of the Board of Management of the University and the consequential circular Memo No.21109/SER.IV/A2/2013 dt.27.12.2013 are declared valid; the University is directed to constitute an expert committee as per Clause (xvii) of Annexure-II of G.O.Ms.No.14 dt.20.02.2010 to consider the cases of petitioners who retired after 01.01.2009 for conferment of Stage-6 benefit, i.e., higher AGP of Rs.12,000/- within eight (08) weeks from the date of receipt of a copy of this order; and it is directed to address the respective Governments of Telangana and the residuary state of Andhra Pradesh with regard to consideration of cases of such of the petitioners who retired between 01.01.2006 and 31.12.2008 for conferment of the said benefit within two (02) weeks from the date of receipt of copy of the order, and if the respective State Governments give consent for such consideration, to constitute expert committee to consider their cases also for conferment of such benefit within eight (08) weeks of receipt of decisions from the respective State Governments. No order as to costs.

64. As a sequel, the miscellaneous petitions, if any pending in these Writ Petitions, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 07-02-2017

Kvr/ndr/*

