

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.22770 OF 2014

O R D E R :

Heard counsel for petitioner and Sri Y.V.Anil Kumar, Standing Counsel appearing for respondents 2 and 3.

2. Petitioners are working as Casual Labour in Sri Venkateshwara Veterinary University, which is the 2nd respondent herein, in various capacities. They have filed this Writ Petition seeking minimum time scale of pay as per Revised Pay Scales(RPS) of 2010 with effect from 01.02.2010 and for consequential monetary benefits together with DA, HRA and CCA in terms of G.O.Ms.No.171 dt.13.05.2010 read with G.O.Rt.No.119 dt.16.02.2013 with consequential benefits of declaring the action of the respondents in not evolving a scheme for absorption of employees working for more than 10 years as on 10.04.2006 in terms of the judgment of the Supreme Court in ***Secretary to the State of Karnataka v. Uma Devi and Others***¹ as illegal, arbitrary and for a direction to respondents to evolve such a scheme.

3. As regards the claim for benefit under RPS, counsel for petitioner places reliance on G.O.Rt.No.119 Higher Education (UE.I) Department, dt.16.02.2013. In the said G.O., the 1st respondent had decided to extend the benefit of HRA and CCA to those employees who have been employed before 25.11.1993 and

¹ 2006(4) SCC 1

continued in the University without interruption, subject to meeting the expenditure from the Block Grant without seeking additional budget from the Government. It further states that there should be evidence of appointment prior to 25.11.1993 and they should be working as on 10.02.2013 without interruption and this has to be verified and certified by the Vice Chancellor concerned. It is further stated therein as regards HRA certain government circulars will not be made applicable.

4. Counsel for the petitioner places reliance on the judgment of the Supreme Court in ***State of Punjab and others v. Jagjit Singh and others*** decided on 26.10.2016 in Civil Appeal No.213 of 2013 with regard to payment of minimum scale of pay admissible to regular employees.

5. In the said judgment the Supreme Court reviewed the entire case law on the point and opined at para 54 that the principle of 'equal pay for equal work' has been extended to temporary employees, differently described as work-charged, daily-wagers, casual, ad-hoc, contractual and the like, and that it is fallacious to determine artificial parameters to deny fruits of labour. It held that an employee engaged for the same work, cannot be paid less than another, who performs the same duties and responsibilities in a welfare state and such an action being demeaning, strikes at the very foundation of human dignity. It held that the sole factor that requires determination is, whether the concerned employees are rendering similar duties and responsibilities, as were being

discharged by regular employees, holding the same/corresponding posts and if so, they would be entitled to claim wages at par with the minimum of the pay-scale of regularly engaged Government employees, holding the same post.

6. Though the Writ Petition was filed in August, 2014 no counter affidavit was filed by the 1st respondent, even though ten adjournments have taken place since then. On 05.01.2017 this Court as a last chance granted time to Government Pleader for Higher Education to file counter by 30.01.2017, stating that if no counter affidavit is filed by that date, the right of the 1st respondent to file counter-affidavit will be forfeited. In spite of the same, no counter affidavit was filed, on or before 31.01.2017, and therefore the right of the 1st respondent to file counter affidavit stood forfeited.

7. Sri Y.V.Anil Kumar, Standing Counsel appearing for respondents 2 and 3 has filed counter affidavit. In the said counter, respondents 2 and 3 have taken a stand that they have sent a proposal to be placed before the Board of Management of the University to extend the benefit of RPS-2010 to Casual Labour, who have been extended the time scale in RPS-2005 and the Board of Management in its meeting held on 23.11.2010 resolved for the award of time scale + DA in RPS-2010 as applicable to last grade service only, but not to higher cadres of casual labourers and decided to seek Government approval for the same to avoid audit objection and recoveries. It is further stated

that the University then addressed a letter to the Government on 25.01.2011 and several reminders subsequently, to ratify its action of extending minimum time scale in RPS-2005 with effect from 01.08.2008 to the categories of JACT/Record Assistant/Class IV cadres and requested to communicate the concurrence of the Finance Department, but the 1st respondent has not informed its decision thereon. It is stated that as and when the 1st respondent permits the 2nd respondent to extend the time scale to Casual Labourers, then only, the 2nd respondent would consider implementation of G.O.Rt.No.119, dt.16.02.2013. It is further stated that the petitioners do not fulfill the condition of five years of service as on 25.11.1993 as stipulated in the Rules to submit proposals to the Government to regularize them in the available sanctioned posts.

8. Having regard to the above submissions of respective parties, as regards payment of minimum of time scale of pay as was paid to regular employees, the same cannot be denied to the petitioners in view of the judgment of the Supreme Court in ***State of Punjab and others v. Jagjit Singh and others*** and the respondents are directed to pay the petitioners minimum of the time scale as was paid to regular employees within a period of three (03) months from the date of receipt of a copy of this order.

9. As regards the claim of the petitioners for regularization, the respondents are directed to evolve a scheme of absorption of employees who were working more than 10 years as on

10.04.2006 as per the judgment of the Supreme Court in ***Secretary to the State of Karnataka v. Uma Devi and Others*** (1 supra), within a period of three (03) months from the date of receipt of a copy of this order and communicate their decision to the petitioners, since the said judgment directs the Government to take steps to regularize the services of temporary employees as a one-time measure. Only after the claim of the petitioners for regularization is resolved, the petitioners would be entitled to claim other benefits such as HRA, etc.

10. With the above directions, the Writ Petition is disposed of. There shall be no order as to costs.

11. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

03rd July, 2017.
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M.S. RAMACHANDRA RAO, J