

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2018

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice KRISHNAN RAMASAMY

W.P.No.11431 of 2017
and
W.M.P.Nos.12392 and 12393 of 2017

1.D.Manimaran
2.S.Sudhakar
3.N.Mourougane
4.K.Dilhavahin
5.D.Sugandhi
6.S.Andalle
7.B.Nurkise Begam
8.P.Nivedha
9.R.Senbagam
10.S.Suguna

... Petitioners

Vs

1.The Registrar,
Central Administrative Tribunal,
High Court Campus, Chennai.

2.Union of India rep. by
The Union Territory of Puducherry
through its Secretary to
Government, Directorate of
Higher and Technical Education
Department, Puducherry.

3.The Principal,
Motilal Nehru Government
Polytechnic College,
Puducherry.

4.The Secretary,
Union Public Service Commission,
New Delhi.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records relating to the impugned order in O.A.No.310/00, 361 of 2017 dated 27.04.2017 passed by the first respondent impugned herein and to quash the same and consequently direct the respondents 2 and 3 to pay salary to the petitioners on par with the regular Lecturers in accordance with G.O.Ms.No.124 dated 26.10.2010.

For Petitioners .. Ms.R.Vaigai, Sr. Counsel
for Mr.P.R.Dhilip Kumar

For Respondents ... Mr.R.Syed Mustafa,
Spl. Govt. Pleader for R2 & R3
(Pondicherry)

Mr.V.Chandrasekaran for R4
R1 - Tribunal

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioners herein have been engaged as Lecturers on contractual basis in various disciplines in the third respondent college in tune with the mode of employment, they have been engaged for a specific period, discontinued and re-engaged. A decision was made by the third respondent to fill up the vacancies through Union Public Service Commission (for short 'UPSC') on a permanent basis. Seeking to regularise their appointments and payment of monetary benefits on par with the regular Lecturers, the petitioners approached the Tribunal.

2.The Tribunal, while declining the continuation till the recruitment is made by the UPSC, was pleased to observe that in view of the settled position of law governing equal pay for equal work and in the event of the petitioners having rejoined, they shall be paid accordingly. Challenging the same, the present writ petition has been filed.

3.Learned senior counsel appearing for the petitioners would submit that till such time regular appointments are made, the petitioners may be permitted to continue with equal pay for equal work. Reliance has been made on the Government Order passed in G.O.Ms.No.124 Chief Secretariat (Education I) Puducherry dated 26.10.2010 with specific reference to the following paragraphs:

3. Therefore, approval of the Lieutenant Governor is hereby conveyed for the continued engagement of the presently engaged Hourly Paid Lecturers in Government Arts and Science Colleges in all regions of this Union Territory and in Motilal Nehru Government Polytechnic College, Puducherry, as per G.Os read 3rd and 4th above, as per the details furnished in the Annexure to this G.O., subject to the following conditions:

(a) They will be engaged as Assistant Professor/Lecturer on casual basis or consolidated pay.

(b) They will be paid a consolidated amount as per the allowances admissible from time to time based on the basic pay drawn by the regular Assistant Professor in the scale of pay of Rs.15600-39100.

(c) As per the existing rate of DA and other allowances, the amount to be paid to each is as detailed below:

Basic Pay	Rs.15,600/-
Academic Grade Pay	Rs.6,000/-
Dearness Allowance @ 45%	Rs.9,720/-
Transport Allowance (Rs.1600 + DA @45%)	Rs.2,320/-
HRA @ 20% of Basic + AGP	Rs.4,320/-
TOTAL	Rs.37,960/-

(d) Their engagement will be continued till regular Lecturers selected by the Union Public Service Commission join duty.

(e) Their engagement is subject to strict observance of the University Grants Commission's work load norms fixed for Assistant Professors.

(f) They are eligible for salary mentioned at Sl.No.3 (b) above, during the vacation period also.

(g) The approval accorded above is applicable only in respect of those persons engaged during the current academic year 2010-11 and who are actually serving in the Colleges where engagement orders were issued.

(h) The above engagement does not confer on them any right to claim, regular appointment or any service benefits available for regular Assistant Professors.

4. This order comes into effect from the Academic Year 2010-11.

5. This issues with the concurrence of the Finance Department vide their U.O.No.30527/F4/2010 dated 29.04.2010.

4. Learned Special Government Pleader appearing for respondents 2 and 3 would submit that the appointment being contractual, not made following the recruitment rules and in the absence of any vested right, the writ petition will have to be dismissed.

5. The matter lies on a very narrow compass. The petitioners are not pressing for regularisation of their services. On the contrary, they want their continuation till the vacancies are filled up in the respective posts held by them as of now. The mere fact that the petitioners have been appointed on contractual basis itself would show the need for Lecturers till the vacancies are filled up on a permanent basis by following the due procedure. We are not only concerned with the interest of the petitioners but also the Institution. The Institution cannot be made to suffer in the interregnum. As the petitioners are not pressing regularisation of their services but only continuation till the regular appointments are made, we do not find any reason as to why the same cannot be considered positively. The Tribunal itself was pleased to hold that the petitioners are entitled for the salary on par with the regular Lecturers on the principle of equal pay for equal work. We are also of the view that the Government Order passed in G.O.Ms.No.124 Chief Secretariat (Education I) Puducherry dated 26.10.2010 is to be applied to the posts held by the petitioners as well.

6. In such view of the matter, the writ petition stands disposed of by directing respondents 2 and 3 to permit the petitioners who are working as Lecturers as of now to continue in their respective posts till the regular recruitments are completed. Needless to state that they should also be paid salary and other benefits on the principle of equal pay for equal work and in the light of G.O.Ms.No.124 Chief Secretariat

(Education I) Puducherry dated 26.10.2010. We also make it clear that this order will not stand in the way of respondents 2 and 3 from proceeding further to complete the process of recruitment on a permanent basis to the post of Lecturers. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Registrar,
Central Administrative Tribunal,
High Court Campus, Chennai.
- 2.The Secretary to Government,
The Union Territory of Puducherry,
Directorate of Higher and Technical Education
Department, Puducherry.
- 3.The Principal,
Motilal Nehru Government
Polytechnic College,
Puducherry.
- 4.The Secretary,
Union Public Service Commission, New Delhi.

+1 cc to Mr.V.Chandrasekaran, Advocate Sr.No.83008
+1 cc to The Government Pleader, Sr.No.84182
+1 cc to Mr.P.R.Dhilip Kumar, Advocate Sr.No.83022

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CSL/08.01.2019

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