

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WVMP.No.3845 of 2017 (I.A.No.1 of 2017) in
WPMP.No.24927 of 2017 in WP.No.20349 of 2017

and

WP.No.20349 of 2017

and

C.C.No.1890 of 2017 in WPMP.No.24927 of 2017
in WP.No.20349 of 2017

COMMON ORDER :

Heard the counsel for petitioners, the learned Government Pleader for Higher Education for 1st respondent, Smt. V. Himabindu, learned Standing Counsel for Sri Venkateswara University for respondent nos.2 and 3; and Sri T. Srikanth Reddy, learned Standing Counsel for University Grant Commission, for 4th respondent.

2. In this Writ Petition, the petitioners assail the inaction of the respondents in implementing / revising the pay scales of petitioners as per the University Grants Commission Revised Pay Scales, 2006 in the cadre of Professors in C.A.S. Scheme and not fixing the Scale of Pay.

3. The petitioners possess Post Graduate qualification and they had applied for the posts of Course Instructor in Sri Venkateswara University (**for short, 'the University'**), Tirupathi, Chittoor District. They were selected and appointed in the said posts for B.Ed., Correspondence Programme on consolidated salary vide proceedings dt.16.04.1985 and 15.06.1985, respectively. When their services were not regularized, they filed W.P.No.801 of 1990 before this Court

seeking regularization of their services and for payment of regular salary attached to the post of Assistant Director-cum-Lecturers. The said Writ Petition was allowed on 10.04.1992, and a direction was given to the University to regularize the services of petitioners as Lecturers and pay all consequential benefits attached to the said post, including arrears.

4. Though the said order was challenged by the University in Writ Appeal No.945 of 1992, the said Writ Appeal was dismissed.

5. During the pendency of the Writ Appeal, the University considered the case of petitioners along with other eligible candidates and regularized their services in the sanctioned posts as Assistant Director-cum-Lecturers in the Institute of Correspondent Courses [presently the Directorate of Distance Education (3rd respondent)] vide proceedings dt.21.11.1992.

6. The probation of the petitioners was declared in the year 1999 in the cadre of Assistant Director-cum-Lecturer, and the petitioners were given Senior Scale of Pay attached to the post of Lecturers under Career Advancement Scheme – II (C.A.S.).

7. The petitioners were later re-designated as Associate Professors under the C.A.S. and they were provided with monetary benefits attached to the post of Associate Professor w.e.f. 22.04.1998 for 1st petitioner, and 27.07.1998 for 2nd petitioner.

8. In the meantime, the U.G.C. issued directions to all Universities including the University to implement the U.G.C. Revised Pay Scales of 1996, w.e.f. 01.01.1996.

9. The University, vide proceedings dt.07.02.2001 implemented the Revised U.G.C. Scales of Pay, 1996 to the petitioners and even granted pay fixation to them in the Revised Pay Scale.

10. The petitioners were later promoted as Professors under the C.A.S vide proceedings dt.22.04.2006. However, their pay was not fixed in the cadre of Professor.

11. It is important to note that the District Audit Officer, Tirupathi, vide proceedings dt.10.08.2006 addressed to the University raised an objection as to payment of salary and allowances to the petitioners from out of the Block Grant of the University contending that this was irregular.

12. The University gave a detailed explanation justifying its action.

13. On 11.10.2014, the District Audit Officer, Tirupati informed the University that he was dropping the Audit objection raised to meet the pay and allowances of the petitioners from the Block Grant of the University.

14. In spite of the same, the University took no steps to revise the Pay Scales of the petitioners as per the Revised U.G.C. Pay Scales, 2006 which the State Government had directed implementation vide

G.O.Ms.No.14 Higher Education (U.E.II) Department, dt.20.02.2010, in spite of representations of the petitioners. The petitioners contend that this inaction on the part of the University has disabled them in getting pay and allowances from the 2nd respondent in the 2006 Revised Pay Scales and the said inaction is arbitrary, illegal and violates Articles 14, 16 and 300-A of the Constitution of India.

15. Therefore, aggrieved by the inaction of respondents, the petitioners herein seek a direction to the respondents to fix their Pay Scales in the Revised Pay Scales, 2006 release arrears of pay with interest at the rate of 18% per annum.

16. The Writ Petition was admitted on 30.06.2017 and an interim order was granted in WPMP.No.24927 of 2017 in WP.No.20349 of 2017, directing the 2nd respondent-University to consider the case of petitioners for fixation of their pay as per U.G.C. Revised Pay Scales, 2006 within six (06) weeks.

17. The State Government has not chosen to file any counter-affidavit, though almost one year has elapsed since the filing of the Writ Petition. Therefore, it is deemed that the State Government has no intention to file any counter-affidavit.

WVMP.No.3845 of 2017 (I.A.No.1 of 2017) :

18. The University has filed WVMP.No.3845 of 2017 in WP.MP.No.24927 of 2017 in WP.No.20349 of 2017 to vacate the above interim order.

19. Without disputing the factual contentions raised by the petitioners with regard to appointment as Course Instructors and their subsequent regularization as Assistant Director-cum-Lecturer, it is contended that the State Government had issued a letter No.01/Cons(SM)/96 dt.08.05.1996, informing the University that it had notified vacancies and appointed the petitioners as Course Instructors in the University of Correspondence Courses on its own accord, and so the liability to pay salaries and allowances should be borne by the Institute of Correspondence Courses of the University (now 3rd respondent), and the State Government will not undertake the liability. It is admitted that though there was an earlier audit objection to meet the expenditure for the four persons including the petitioners working in the Correspondence Courses Department from the Block Grant, the same had been dropped by proceedings dt.11.10.2014 of the District Audit Officer. However, a plea is raised that the Block Grant receipt is alone not sufficient to meet the salaries of the staff of the University, that the University was pooling up funds from other sources such as Director of Distance Education, Development and Self-Supporting funds every month, and that the amount received from other sources is more than the salaries paid to the employees of the Directorate of Distance Education staff. Having made the above statement, it is stated that in future there may be audit objections on account of disbursement of pensionary benefits to the two petitioners and so, a letter was addressed to the State Government for approval.

The consideration by the Court:

20. In the light of the above stand taken by the University (2nd respondent) in its counter-affidavit that the State Government had informed it way back on 08.05.1996 that it is not going to meet any liability on account of payment of salaries or allowances of the petitioners, the University cannot now, as is sought to be contended by the Counsel for University, turn around and take the stand that unless Government releases funds it cannot meet the liability to pay the arrears of Revised Pay payable to the petitioners.

21. Also, once the audit Department, i.e., the District Audit Officer, State Audit, S.V. University, Tirupathi dropped the objection to meet the pay and allowances of employees of Department of Distance Education of the University from the Block Grant in his letter vide S.A.No.163, dt.11.10.2014, there is no impediment to the University to meet the liability arising out of payment of arrears of pay as per the Revised Pay Scales, 2006, which undoubtedly, the petitioners would be entitled to (in view of the directive of the U.G.C. which was also directed to be implemented by the State Government vide G.O.Ms.No.14 Higher Education (U.E.II) Department, dt.20.02.2010, w.e.f. 01.01.2006).

22. Possibility of future audit objections which may arise in case of remaining staff is not a valid ground entitling the University to refuse to grant benefit of Revised Pay Scales, 2006 to the petitioners w.e.f. 01.01.2006 on the said count.

23. The same cannot be denied to the petitioners on arbitrary grounds on the basis of non-existent objections.

24. When the U.G.C. itself directed payment of Revised Pay Scales, 2006 w.e.f. 01.01.2006 and the State Government instructed its implementation vide G.O.Ms.No.14 Higher Education (U.E.II) Department, dt.20.02.2010, the 2nd respondent-University also cannot avoid payment of Revised Pay Scales, 2006 to the petitioners w.e.f. 01.01.2006 after fixing their pay in the said Pay Scales.

25. Accordingly, the Writ Petition is allowed without costs. The 2nd respondent is directed to fix the pay of the petitioners in the scale of Professor as per the Revised Pay Scales of 2006 directed to be implemented by the State Government w.e.f. 01.01.2006 vide G.O.Ms.No.14 Higher Education (U.E.II) Department, dt.20.02.2010 within two (02) months from the date of receipt of copy of the order and pay to the petitioners arrears of salary on account of such pay Revision within the same period with interest @ 9.1% per annum till actual payment.

26. Consequently, WVMP.No.3845 of 2017, which was filed to vacate the order dt.30.06.2017 passed in WP.MP.No.24927 of 2017 in WP.No.20349 of 2017, is dismissed.

C.C.No.1890 of 2017 :

27. In view of the orders passed in the Writ Petition allowing it, the Contempt Case is closed. No order as to costs.

28. As a sequel, miscellaneous petitions pending if any in this Writ
Petition and Contempt Case, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 11.06.2018

Ndr/*

