

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WVMP.No.3847 of 2017 (I.A.No.1 of 2017) in
WPMP.No.24926 of 2017 in WP.No.20348 of 2017

and

WP.No.20348 of 2017

and

C.C.No.1889 of 2017 in WPMP.No.24926 of 2017
in WP.No.20348 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, not fixing the Scale of Pay for finalizing the pension proposals and not releasing the retirement benefits like gratuity, leave encashment, etc., even though the petitioners retired from service five years back on 31.03.2012 and 30.06.2013, respectively.

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.16.05.1985. 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 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. 05.11.1995 for 1st petitioner, and 22.04.1998 for 2nd petitioner.

8. In the meantime, the U.G.C. issued directions to all Universities including the present 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 1st petitioner was later promoted as Professor under the C.A.S vide proceedings dt.05.05.2005, and the 2nd petitioner was also promoted in the same manner vide proceedings dt.03.08.2006 w.e.f. 05.11.2003 and 22.04.2006, respectively. However, their pay was not fixed in the cadre of Professor. The petitioners continued to work in the said Cadre till the 1st petitioner retired on 31.03.2012 and the 2nd respondent retired on 30.06.2013.

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 prevented them from even making application for receipt of pension since the scale of pay was not fixed by the 2nd respondent in the 2006 Revised Pay Scales and they were disabled from getting retirement benefits like Encashment of Leave, Payment of Gratuity, etc.

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, permit the petitioners to submit pension papers to the 2nd respondent for release of pension along with arrears and seek also and a direction to the 2nd respondent to fix the pension and release all other retirement benefits 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.24926 of 2017 in WP.No.20348 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.3847 of 2017 (I.A.No.1 of 2017) :

18. The University has filed WVMP.No.3847 of 2017 in WP.MP.No.24926 of 2017 in WP.No.20348 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 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 or Pension and other retirement benefits 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 said 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 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 or to deny pension and other retirement benefits on the said count.

23. It is settled law that pension is not a bounty and that it is a service benefit which every employee is entitled to. Therefore, 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 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 w.e.f. 01.01.2006 as per G.O.Ms.No.14 Higher Education (U.E.II) Department dt.20.02.2010 and pay the arrears of salary to the petitioners from the said date till their respective dates of retirement with interest at the rate of 9% per annum till actual payment, which shall be not more than two (02) months from the date of receipt of copy of this order.

26. The University shall also determine the quantum of pension payable to the petitioners on an application for pension payment made by each of the petitioners within four (04) weeks of submission of such application by the petitioners, and pay to the petitioners pension and other benefits due to them such as Gratuity, including arrears of pension with interest @ 9% per annum, within two (02) months from the date of receipt of copy of the order.

27. Consequently, WVMP.No.3847 of 2017, which was filed to vacate the order dt.30.06.2017 passed in WP.MP.No.24926 of 2017 in WP.No.20348 of 2017, is dismissed.

C.C.No.1889 of 2017 :

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

29. 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/*

