

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.38523 OF 2017

Date: 12.10.2018

Between:

Dr. B.Ravinder Reddy, s/o. late B.Papi Reddy,
Aged 49 years, Assistant Professor of Physics,
University College of Science, Saifabad,
Osmania University, Hyderabad and others.

.....Petitioners

And

Osmania University, Hyderabad,
Rep.by its Registrar.

....Respondent



The Court made the following:

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ORDER:

Heard learned senior counsel Sri G.Vidya Sagar for petitioners and Sri Ch.Jagannatha Rao for respondent-University.

2. This present writ petition is filed praying to grant declaration that the action of the respondent-University in not extending the benefit of AGP of 7000/-; 8000/- and 9000/- w.e.f. 11.02.2007, 11.02.2012 and 11.02.2015, respectively, under the Career Advancement Scheme (CAS) duly reckoning the service rendered for the period from 11.02.2003 and for a consequential direction to extend the benefit to the petitioners herein.

3. Petitioners were appointed as Part-time Lecturers w.e.f. 26.10.1996, 06.10.1993 and 06.10.1993 respectively. 1st petitioner filed W.P.No.8392 of 1997 and petitioners 2 and 3 filed W.P.No.25533 of 1996 praying to issue direction to regularize the services of petitioners. Writ Petitions were disposed of by order dated 11.03.1998 directing to consider regularization.

4. Osmania University preferred W.A.No.1076 of 1998 against W.P.No.8392 of 1997 and W.A.No.1083 of 1998 against W.P.No.25533 of 1996. By separate orders both Writ Appeals were disposed on 14.07.1998.

5. Challenging the decision of Division Bench, Civil Appeal No.5320 of 2001 and batch were preferred. The Hon'ble Supreme Court by order dated 14.08.2001 sets aside the orders of Division Bench and remanded for fresh consideration.

6. On remand, W.A.No.764 of 1998 and batch were disposed of by order dated 11.09.2002. The operative portion of the order reads as under:

“In view of this letter addressed by the Government and in view of the submissions made by the learned counsel for the Universities which we have recorded in our order dated 28.12.2001 the position is clear that all the respondents have agreed that they will conduct selections and consider the petitioners - Part-time Lecturers for regular appointment after relaxing the age of those petitioners who have crossed the age limit for seeking appointment as Lecturer.

We feel that this arrangement is a fair arrangement, but the learned counsel for the petitioners submits that the time limit will have to be fixed because the petitioners – Part-time Lecturers have been suffering for a long time. We appreciate the difficulty of the petitioners. Therefore, while accepting the contention of the Universities and the State that the petitioners – Part-time Lecturers will have to face the competition, we order that the process of selection shall be completed within a period of four months from today. The candidates who have crossed the age limit shall be granted the relaxation for being eligible for selection. During the period of these four months, the petitioners – Part-time Lecturers shall continue to remain in service on the same terms and conditions which are applicable to them as on today and shall not be removed from service.

At the expiry of four months if the selection is not completed they shall be entitled to salary in the Grades which are meant for Lecturers without further orders from this Court.” (emphasis supplied)

7. Within the time granted services of petitioners were not made regular. Thus, the University vide proceedings dated 08.03.2003 extended the scale of pay of Assistant Professors to the petitioners and other Part-time Lecturers. It appears, petitioners were appointed to the post of Assistant Professors vide orders

dated 06.09.2013 in the pay scale of 15,600 – 39,100/- + AGP of 6000/-.

8. The petitioners have rendered continuous service initially as Part-time Lecturers and later in the time scale of pay of Assistant Professors w.e.f. 11.02.2003. Petitioners claim that they were paid UGC revised scales of pay 1996 i.e., 8000-13500/- for the period between 11.02.2003 to 06.09.2013. From 02.07.2008 they were extended the benefit of 50% D.A. Petitioners therefore claim that by counting the service in the scale pay of Assistant Professor w.e.f. 11.02.2003 they are eligible for upgradation from AGP 6000 to AGP 7000 after completion of four years; AGP 7000 to AGP 8000 after completion of five years; and AGP 8000 to AGP 9000 after completion of three years of service thereon. Petitioners made application for upgradation under CAS vide application dated 07.09.2016, 29.07.2016. However, their applications were not considered. Aggrieved by the same, petitioners made representation dated 25.01.2017. As the benefit is not extended, this writ petition is filed.

9. It is the case of petitioners that Dr. B.Krishna Reddy, Assistant Professor in Mathematics was also extended the scale of pay in the cadre of Assistant Professor vide proceedings dated 08.03.2003. He was regularly appointed in the year 2007. The Executive Council in the meeting held on 04.01.2010 recommended him to extend AGP Pay 8000/- and 9000/-. The same was not extended to him. Aggrieved thereby he filed W.P.No.36190 of 2017 for implement the decision of the Executive Council dated 04.01.2010 for extending the AGP of 8000/- and

9000/- and that the report of the Service Committee constituted in the year 2017 as illegal and arbitrary. During pendency of the Writ Petition No.36190 of 2017, as he was not considered to grant 9000/- AGP in Associate Professor cadre, he filed WP No.5845 of 2018.

10. This Court by common order dated 13.03.2018 in W.P.No.36190 of 2017 and W.P.No.5845 of 2018 held that for the purpose of extending the benefit of CAS under the UGC, the selection undergone at the time of initial appointment is sufficient and that the decision of the Executive Council in its meeting held on 26.08.2009 is justified and the objection of the University was rejected. Accordingly, W.P.No.36190 of 2017 is allowed and the University was directed to subject the petitioner to selection process for grant of various grades of AGP i.e., 7000/-, 8000/- and 9000/- by computing the services rendered by him from 11.02.2003, date of granting scale of pay towards eligible service.

11. Learned senior counsel would submit that having regard to history of litigation and directions issued by Division Bench in the previous litigation, the service rendered by petitioners from the date of granting scale of Assistant Professor in the year 2003 must be computed for the purpose of determination of eligibility service to grant benefits under the UGC Career Advancement Scheme and denial is arbitrary. He would submit that the principle of computing the eligibility service in the grade to grant higher grades as per UGC guidelines was considered by this Court in the judgment rendered in W.P.Nos.36190 of 2017 and 5845 of 2018.

12. Learned senior counsel for petitioners contend that petitioners herein are similarly situated. They were also granted grades from 11.02.2003 as extended to Dr. Krishna Reddy and later appointed on regular basis. Only difference, he would submit, is their regular appointment was in 2013 compared to regular appointment of Dr. Krishna Reddy in the year 2013. The view taken therein is applicable to this case as petitioners have same grievance as agitated by Dr. Krishna Reddy. According to learned senior counsel, the said decision was implemented and all the benefits were granted to Dr. Krishna Reddy.

13. Learned standing counsel though do not dispute that issue agitated in this writ petition was considered by this Court in the two writ petitions, referred to above and is implemented, he would reiterate the same contentions as urged in the earlier writ petition. In other words, according to learned standing counsel, eligibility service can be computed only from the date of regular appointment.

14. University Grants Commission (for short, 'UGC') introduced periodical financial upgradation/elevation to teaching faculty as an incentive and to remove stagnation. UGC notified guidelines for consideration of claims to grant such financial upgradation. After revision of Pay Scales in the year 2006, fresh set of guidelines were notified. The post of Assistant Professor is in the AGP of Rs.7,000/-; Assistant Professor Senior Scale in the AGP of Rs.8,000/-; Associate Professor in AGP of Rs.9,000/- and Professor in AGP of Rs.10,000/-. Assistant Professor with AGP of Rs.7,000/-

and possessing Ph.D., degree is eligible to move into AGP of Rs.8,000/- after completion of 5 years of service.

15. The guidelines also prescribe computation of past service for consideration under CAS. Under the heading of *Counting of Past Service for Promotion under CAS*, there are 8 paragraphs prescribing various conditions of eligibility.

16. The scope of UGC guidelines to grant CAS, the earlier litigation, directions issued by Division Bench, extracted above, granting scale attached to the post of Assistant Professor were considered having regard to claim of petitioner in W.P.No.36190 of 2017 and 5845 of 2018. This court held that petitioner therein is entitled to compute the service rendered after scale of pay of Assistant Professor was granted to him to extend the benefits of UGC-CAS.

17. The relevant paragraphs of the Order read as under:

“16. If only the University complied with the directions issued by the Division Bench to complete the selection process within four months, petitioner could have been appointed as Assistant Professor on regular basis in the year 2003. It is not in dispute that petitioner was not responsible for the delay in completion of selection process and issuing regular appointment only in the year 2007. Delay attributable to the University cannot deprive the petitioner to compute service at least for limited purpose of securing financial upgradation as per the UGC guidelines. It is also not in dispute that petitioner was fully qualified even by the time he was initially appointed as Part Time Lecturer and has rendered continuous service till his services were regularized in the year 2007. In the facts of this case, the contention of the respondent–University that petitioner was not subjected to regular selection process as

required under Section 43 of the Act by the time he was granted scale/grade in the year 2003 cannot be countenanced. Further, procedure envisaged in Section 43 of the Act is applicable when regular selections are made. In the facts of this case the Court is of the opinion that petitioner is entitled to compute service rendered by him from 11.02.2003 towards eligible service to grant various grades of AGP as per the University Grants Commission Career Advancement Scheme and rejection by the University is not valid.

17. UGC guidelines are only intended to grant periodical upgradation to the higher scales/ promotions by fixing time schedule. The guidelines are couched in liberal terms to compute past service for eligibility. Guidelines only seek to deny past service if the person was a guest lecturer or was appointed on *ad hoc* basis or on a leave vacancy of less than one year. It is not in dispute that even by the time petitioner was appointed as Part Time Lecturer and later as Assistant Professor, his services were utilized as regular lecturer. He rendered service for more than one year. He was not appointed as guest lecturer. Thus, all the conditions of paragraph (f) of the UGC Guidelines are fulfilled except to the extent of selection by duly constituted selection committee. However, it is appropriate to take note the fact that by the time petitioner was appointed on part time basis, there was internal selection process by the University, interviews were conducted and on assessment made by the selection committee, selections were made. Thus, it cannot be said that there was no selection process at all before petitioner was selected though selection as required under Section 43 of the Act was not observed. For the limited purpose of extending the benefit of UGC CAS, the selection undergone by the petitioner would suffice to fulfill the requirements of clause (f).

18. As noticed from the submissions made by learned Standing Counsel, the stand of the University is that petitioner was not subjected to selection process as required under Section 43 of the Act when he was appointed as Part Time Lecturer and that he was regularly

selected only in the year 2007. The objection in not complying with Section 43 of the Act, selection process is negated in the earlier paragraphs. Merely because he was granted scale/grade of Assistant Professor in the year 2003 but not regularly selected, that service cannot be ignored towards eligible service under CAS. More so, when petitioner was not responsible for such delay. For the reasons assigned above, this contention of the University cannot be accepted.”

18. From the facts as noted above, it is seen that petitioners herein were also appointed temporarily and the Division Bench of this Court directed holding of selections to appoint them on regular basis within the period of four months. Division Bench further ordered that for any reason if the selection process is not completed within the time fixed, petitioners should be extended the benefit of time scale. Their services were made regular in the year 2013. The only difference between the petitioners herein and the petitioner in W.P.No.36190 of 2017 is that the services of petitioner therein were made regular in the year 2007. However, the core issue in both writ petitions is same, i.e., computation of service rendered in the grade as applicable to the regular Assistant Professors from the year 2003. In the instant case also, petitioners are not responsible for the delay in their appointment on regular basis.

19. On going through the record of this case, this Court is convinced that the issue agitated in this writ petition is similar to the issue raised in the above two writ petitions and petitioners also entitled to same benefit as granted to Dr. Krishna Reddy.

20. It is also appropriate to note that same issue has come up for consideration in the case of **Dr. N.J.Prameela Subhashini v. Registrar, Osmania University, Hyderabad**¹. There also, the Osmania University objected to count past service of petitioners therein contending that selections were not made in accordance with Section 43 of the Universities Act. Rejecting the said contention and holding that petitioners therein were subjected to selection process by a Committee constituted at the institution level and such selection is valid and, therefore, the service rendered after such selection can be computed towards eligibility service under the CAS. The said decision was followed in the case of Dr.B.Krishna Reddy.

21. Having regard to the same, following the decision of this Court in the above writ petitions, this Writ Petition is also allowed in terms of prayer sought. The respondent-University is directed to subject the petitioners to selection process to grant various grades of AGP i.e., 7000/-, 8,000/- and 9,000/- by computing the service rendered by them from 11.02.2003 towards eligibility service. The entire selection process shall be completed within a period of two months from the date of receipt of copy of this order. Pending miscellaneous petitions if any shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 12.10.2018
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¹ 2017(5) ALD 743

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