

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.20673 of 2009
and
M.P.Nos.1 and 2 of 2009

K.B.Chandrasekaran

...Petitioner

Vs

- 1.The Secretary to Government,
Higher Education Department
Fort St.George, Chennai-600 009.
- 2.The Director of Collegiate Education,
College Road, Chennai-600 006.
- 3.The Regional Joint Director of Collegiate Education,
Chennai Region, Saidapet, Chennai-600 015.
- 4.The Secretary,
Dhanraj Baid Jain College
Jyothinagar, Oggiyam
Thorapakkam, Chennai-600 096.
- 5.The Secretary,
University Grants Commission,
Bahadur Shah Zafar Marg
New Delhi-110 002.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pursuant to the impugned order issued by the third respondent in Proceedings Na.Ka.No.7260/B1/2008 dated 22.12.2008 and quash the same and consequently direct the respondents to restore the revised scale of pay of Rs.14,940/- with effect from 21.05.2001 and pay all consequential monetary benefits and arrears of pay with interest.

For Petitioner : Ms.Swathi Subramaniam for
Mr.R.Prem Narayan

For Respondents : Mr.K.Karthikeyan,
Government Advocate for
R1 to R3

No appearance for R4

Mr.P.R.Gopinathan for R5

ORDER

This writ petition has been filed questioning the correctness of the impugned order passed by the Regional Joint Director of Collegiate Education, Chennai, the third respondent herein in Proceedings Na.Ka.No.7260/B1/2008 dated 22.12.2008 praying to quash the same and to consequently direct the respondents to restore the revised scale of pay of Rs.14,940/- with effect from 21.05.2001 and pay all consequential monetary benefits and arrears of pay with interest, to the petitioner.

2.The learned counsel for the petitioner submits that the petitioner was working as Selection Grade Lecturer in the Dhanraj Baid Jain College, Thorapakkam, the fourth respondent herein. He was initially appointed as Lecturer on 06.02.1981 and subsequently he was also granted Selection Grade benefit in the post of Lecturer on 21.05.1996. After three years, the State Government issued G.O.Ms.No.111 Higher Education Department dated 24.03.1999, implementing revision of pay scales to the teaching staff in Government Colleges / Aided Colleges and on the basis of the recommendation of the University Grants Commission, pursuant to issuance of G.O.Ms.No.111, the petitioner's pay was revised in the cadre of Selection Grade Lecturer as Rs.14,940/-. When the petitioner was receiving such scale of pay for the past eight years, without there being any notice whatsoever or any communication issued to the petitioner calling for any explanation as to why the petitioner's Selection Grade scale of pay should not be revised, the scale of pay of the petitioner was suddenly reduced from 01.01.2009. The petitioner approached the fourth respondent College and they also informed the petitioner that there was error in the fixation done in the year 2001 and therefore, on the basis of the error committed, the petitioner's pay was reduced. But no order has been passed to that effect. Had there been any notice issued to the petitioner, the petitioner might have given a detailed reply stating that the fixation of the scale of pay at Rs.14,940/- in the cadre of Selection Grade Lecturer has been done on the basis of G.O.Ms.No.111 Higher Education Department dated 24.03.1999 and therefore the petitioner's scale of pay has been revised at Rs.14,940/- on the basis of the said G.O., more

particularly, Sub-Clause (v) under the head "Pay Scales" of Clause-2, which states that the fixation of pay of Selection Grade Lecturers / Readers in the pre-revised scale of Rs.3700-125-4950-150-5700 who were selected strictly in accordance with the rules and regulation framed by the University Grants Commission and who were in position on Lecturers (Selection Grade) / Readers as on 01.01.1996, will be made in a manner that they get their pay fixed at the minimum of Rs.14,940/- in the revised scales of Rs.12000-420-18300 as and when they complete five years of service in the grade.

3. Admittedly, the petitioner, after his appointment as Lecturer on 06.02.1981, was granted the benefit of Selection Grade in the post of Lecturer on 21.05.1996 and thereafter, the petitioner also has completed five years on 21.05.2001. More than that, the petitioner was also receiving the revised scale of pay for the past eight years. Ignoring this settled position in respect of the scale of pay, the impugned order has been passed and hence the same is liable to be set aside, as it has not been passed by issuance of prior notice, according to the learned counsel for the petitioner.

4. Detailed counter has been filed by the University Grants Commission, the fifth respondent herein. The learned counsel for the fifth respondent, reiterating the stand taken in the counter, has pleaded that in the Appendix-I to the Notification dated 24.12.1998, University Grants Commission has mentioned that a consolidated statement based on the letters dated 27.07.1998 and 06.11.1998 of the Ministry of Human Resource Development was appended; Clause v of the consolidated statement deals with the issue of allowances, effective date and fitment formula; Clause v also deals with the issue of fixation of the pay of Lecturers (Selection Grade)/Readers. In so far as the issue of fixation of pay at the minimum of Rs.14,940/- in the revised scale of pay is concerned, the same has to be fixed in terms of Clause v of the consolidated statement appended to University Grants Commission Notification dated 24.12.1998. Relevant paragraphs of the consolidated statement under the Head "(V) Allowances, Effective Date and Fitment Formula", as stated in the counter are reproduced as under:

"(a) The revised scale of pay as contained in the Annexure will be effective from 01.01.1996 (Annexure-I, II, III).

(b) The fixation of pay of Lecturers (Selection Grade)/Readers in the pre-revised scale of Rs.3700-125-4950-150-5700/- who were selected strictly in accordance with the rules and regulations framed by the U.G.C. and who were in position as Lecturers

(Selection Grade) / Readers as on 01.01.1996, will be made in a manner that they get their pay fixed at the minimum of Rs.14,940/- in the revised scale of Rs.12,000-420-18,300 as and when they complete five years in the grade. (Annexure-III).

(c) The pay of Readers and Professors who were in the pre-revised scales of Rs.3000-5000/- and Rs.4500-5700/- will be fixed at the appropriate stage of the revised scales of Rs.10000-325-15200 and Rs.16400-450-20900-500-22400/- respectively as on 01.01.1996 (Annexure-III).

(d) Pay with effect from 01.01.1996 in the revised scale of pay will be fixed after giving the benefit of one increment for every three increments earned in the pre-revised scales as stipulated in Rule 7 of Central Civil Services (Revised Pay) Rules, 1997, and governed by other relevant provisions of Central Civil Services (Revised Pay) Rules, 1997 as applicable."

5. In so far as the issue of fixation of pay at Rs.14,940/- in the revised scale of pay is concerned, it is pleaded that the same has to be fixed in terms of Clause V(b) of the said consolidated statement appended to the U.G.C. Notification dated 24.12.1998. Moreover, the said provision mandates that fixation of pay at Rs.14940/- is available to only those Lecturers (Selection Grade)/ Readers who were in the pre-revised scale of Rs.3700-5700 selected strictly in accordance with the rules and regulations framed by the University Grants Commission and who were in position as Lecturers (Selection Grade)/Readers as on 01.01.1996.

6. The scale of pay of the petitioner in the Selection Grade Lecturer post was re-fixed at Rs.14940/- without there being any order passed by the respondents 1 to 3. No counter has been filed on behalf of the respondents 1 to 3. Mr.K.Karthikeyan, learned Government Advocate, appearing for the respondents 1 to 3 has submitted that even the impugned order also does not make any reference to the notice issued to the petitioner before disturbing the pay fixation made to the petitioner in the cadre of Selection Grade Lecturer at Rs.14940/-.

7. A perusal of the impugned order of recovery dated 22.12.2008 does not show that any notice was issued to the petitioner before reducing the scale of pay of the petitioner fixed at Rs.14940/- in the post of Selection Grade Lecturer. Therefore, the order passed behind the back of the petitioner without following the principles of natural justice, viz., without any notice issued whatsoever, that too after eight years

after fixation of the scale of pay at Rs.14940/- is liable to be set aside and accordingly it is set aside and the writ petition is allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

KM

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Government of Tamil Nadu
Higher Education Department
Fort St.George, Chennai-600 009.
- 2.The Director of Collegiate Education,
College Road, Chennai-600 006.
- 3.The Regional Joint Director of Collegiate Education,
Chennai Region, Saidapet, Chennai-600 015.
- 4.The Secretary,
Dhanraj Baid Jain College
Jyothinagar, Oggiyam
Thorapakkam, Chennai-600 096.
- 5.The Secretary,
University Grants Commission,
Bahadur Shah Zafar Marg
New Delhi-110 002.

+1cc to Mr.P.R.Gopinathan, Advocate, SR.No.22209
+1cc to Mr.G.Prem Narayan, Advocate, SR.No.20876
+1cc to the Govt.Pleader, Vide Sr.No.21477

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Kak(09/04/2019)

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