



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 30.07.2019  
(Reserved on 10.06.2019)

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CORAM :

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

W.P(MD)Nos.11270 of 2006 and 3874 of 2013  
and

M.P(MD)No.1 of 2013 & WMP(MD)Nos.18143 & 18144 of 2017

W.P(MD)No.11270 of 2006

Dr.T.Mytle Grace

... Petitioner

vs.

1)The Tamilnadu Agricultural University,  
Coimbatore-641 003,  
Rep by its Registrar.

2)The Vice Chancellor,  
The Tamilnadu Agricultural University,  
Coimbatore-641 003.

3)The Dean,  
Agricultural College and Research Institute,  
Madurai, Madurai District-625 104.

... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued in the reference of the 3<sup>rd</sup> respondent A/1386/2006 dated 06/06/2006 and quash the same and directing the respondents to promote the petitioner as Professor under Career Advancement Scheme and pay her in the scale of pay and other allowances applicable to the post of Professor together with consequential arrears from the date on which the petitioner completed the qualifying service of 17 years on 15/07/2005.

|                |                    |
|----------------|--------------------|
| For Petitioner | : Mr.I.Suthakaran  |
| For R1 & R2    | : Mr.A.Thirumurthy |
| For R3         | : No appearance    |

W.P(MD)No.3874 of 2013

Dr.T.Mytle Grace

... Petitioner

vs.

1)The Secretary to Government,  
Department of Agriculture,  
Fort St.George,  
Chennai-9.



2) The Director of Local Fund Audit,  
Kuralagam Buildings,  
Chennai-108.

3) The Registrar,  
Tamil Nady Agricultural University,  
Coimbatore-3.

... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call records relating to the impugned proceedings of the 3<sup>rd</sup> respondent issued in his reference No.R3/4436/2008 dated 09.02.2013 and quash the same so far as Page 3 of the Impugned Proceedings of the 3<sup>rd</sup> Respondent and direct the Respondent to refix the salary of the Petitioner in the scale of Associate professor with effect from 27.07.1998 and granting subsequent increment together with consequential monetary benefit and arrear of salary within the time stipulated by this Hon'ble Court.

|                |                    |
|----------------|--------------------|
| For Petitioner | : Mr.I.Suthakaran  |
| For R1 & R2    | : No appearance    |
| For R3         | : Mr.A.Thirumurthy |

#### COMMON ORDER

Prayer in WP(MD)No.11270 of 2006: To issue a Writ of Certiorarified Mandamus, to call for the records relating to the order of the 3<sup>rd</sup> respondent in A/1386/2006 dated 06.06.2006 and quash the same and to direct the respondents to promote the petitioner to the post of professor and fix pay and allowances in the post of professor with effect from 15.07.2005.

Prayer in WP(MD)No.3874 of 2013: To issue a Writ of Certiorarified Mandamus, to call for the records relating to the order of the 3<sup>rd</sup> respondent in Reference No.R3/4436/2008 dated 09.02.2013 and quash the same so far as the para 3 in page 3 of the impugned proceedings of the 3<sup>rd</sup> respondent and to direct the respondents to refix the salary in the scale of pay pertaining to the post of Associate Professor with effect from 27.07.1998. and granting subsequent increment together with consequential monetary benefit and arrear of salary within a stipulated time as deem fit and proper by the court.

WMP(MD)No.18143 of 2017 in WP(MD)No.3874 of 2013: To amend the prayer in WP(MD)No.3874 of 2013 'to issue a writ or direction or order specifically the Writ of Certiorarified Mandamus, to call for the records relating to the order of the 3<sup>rd</sup> respondent in Reference No R.3/4436/2008 dated 09.02.2013 and quash the same so far as the para 3 in page 3 of the impugned proceedings and impugned appendix -V dated 10.03.2010 of 2<sup>nd</sup> respondent and the impugned pay fixation order dated 24.03.2010 and to direct the respondents to refix the



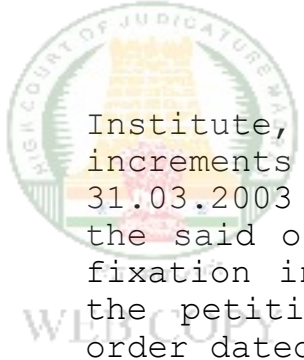
salary in the scale of pay pertaining to the post of Associate Professor with effect from 27.07.1998 and granting subsequent increment together with consequential monetary benefit and arrear of salary within a stipulated time as deem fit by the court.

1. All the petitions are filed by Dr.T.Mytleee Grace, who is now a Professor of Taminadu Agricultural University. The petitions relate to the fixation of her pay consequent to her promotions to the post of Associate Professor and Professor under CAS. Therefore, the pleadings of the petitioner in all the writ petitions are dealt with in this common order.

2. Heard the counsels for both sides and perused the records and the written submissions. The petitioner is presently a Professor with the Tamilnadu Agricultural University. She joined the University as Assistant Professor, Agronomy in the year 1988. The petitioner was subjected to some enquiries in the past relating to some reports in the Press regarding some alleged foul play in the affairs of the Tamilnadu Agricultural University which however is not part of the relief sought in this writ petition. The petitioner sees bias on the part of the University officials in determining her career progress on account of the above incident.

3. The brief facts of the case is that the petitioner appeared for CAS interview in the year 2002 for the post of Associate Professor. She was not selected. She again appeared for CAS interview for the post of Associate Professor during 2003. She got selected and joined the post of Associate Professor from 10.02.2003 at the Agricultural Research Station, Paramakudi. The Professor and Head, Agricultural Research Station, Paramakudi, passed the pay fixation order for the petitioner on 31.03.2003. The pay was fixed with retrospective effect from 27.07.1998, being the date on which the petitioner became eligible for the post of Associate Professor under CAS. The order carried the condition that the arrears from 27.07.1998 to 28.02.2003 will be claimed later and that the pay fixation order is subject to the verification by Audit in due course. While the pay fixation order was implemented, the arrears was not paid to the petitioner for want of the Audit Approval.

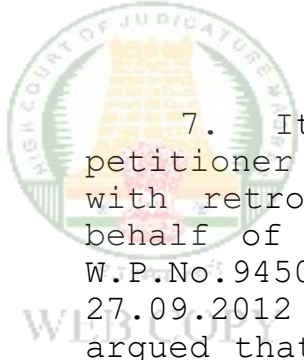
4. The Deputy Director, Local fund Audit, TNAU, Coimbatore, approved the pay fixation of the petitioner in the post of Associate Professor only from 10.02.2003 that is, from the date of grant of promotion to the petitioner under CAS and not from the date of eligibility as determined by the Professor and Head, Agricultural Research Station, Paramakudi. The approval came at a distant date of 10.03.2010 that is, 7 years after the pay fixation order dated 31.03.2003 passed by the Professor and Head, Agricultural Research Station, Paramakudi. There is no explanation for this inordinate delay in obtaining audit concurrence by the respondents. The re-fixation of pay in terms of the above order of the second respondent was implemented in the proceedings dated 24.03.2010 of the Professor and Head, Department of Agronomy, Agricultural College and Research



Institute, Madurai. It is submitted by the petitioner that the increments awarded in terms of the original pay fixation order dated 31.03.2003 were withdrawn and the monetary benefits paid in terms of the said order was adjusted against the arrears paid under the pay fixation in terms of the 6<sup>th</sup> pay commission. It was submitted that the petitioner did not challenge the above revised pay fixation order dated 24.03.2010.

5. Meanwhile, a Writ petition in WP.No.9450 of 2011 came to be filed by 52 teachers of the University who had failed to clear the CAS interview held during 2002, but cleared the same during 2003, as like the petitioner, seeking notional fixation of pay with effect from the date of eligibility for the promotion post in terms of the CAS after granting paper increments upon promotion. The 52 teachers in the Writ Petition included the identically placed staff like the petitioner who failed to clear the CAS interview for the post of Associate Professor in 2002 and subsequently cleared the interview in 2003. Consequent to the disposal of the above Writ Petition by this Court, all the 52 teachers were given pay fixation with retrospective effect by the University from the date of eligibility for promotion under CAS, that is, from 27.07.1998 and after, for the 52 petitioners leaving the petitioner in this writ petition isolated and discriminated. The respondents take umbrage under the order dated 24.03.2010 of the second respondent approving the pay fixation of the petitioner to discriminate the petitioner and defy her right of pay parity. It was also pointed out by the petitioner that for the promotion to the post of Professor, three of the teachers from the same department as that of the petitioner who were not selected in the interview conducted during 2006, as like the petitioner, were later given retrospective pay fixation with effect from the date of eligibility in terms of the order dated 27.09.2012 in WP.No.9450 of 2011. It was pointed out that the above order itself was delivered in ensuring pay parity.

6. The respondents submit that the petitioner had appeared for the first time for CAS interview for the post of Professor in the year 2006. She was not selected. Therefore, it was pleaded by the respondents that the prayer of the petitioner in WP(MD)No 11270 of 2006 to grant her promotion as Professor with effect from the date of eligibility under the CAS, that is, the completion of 17 years of total service as on 15.07.2005 is liable to be rejected. It was submitted that the petitioner did not appear for the CAS interviews held for the post of Professor in the years 2007 and 2008. The petitioner had appeared for the CAS interview during the year 2009 for promotion to the post of Professor and she got selected. The promotion order to the post of Professor was issued on 31.07.2009 and the petitioner joined duty as Professor on 03.08.2009. Pay for the petitioner in the post of Professor was fixed with effect from 03.08.2009 with the due approval of the second respondent and it was alleged that the petitioner had not challenged the said pay fixation.

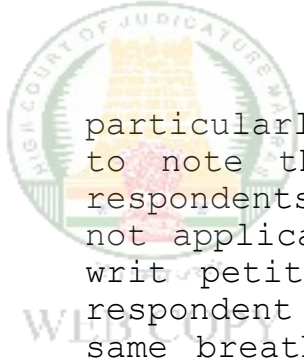


7. It was also submitted by the respondents that the petitioner never made any application with a request to fix her pay with retrospective effect with the University. It was argued on behalf of the respondents that the petitioner is not a party to W.P.No.9450 of 2011 and hence not covered by the judgment dated 27.09.2012 passed by the Principal Bench of this Court. It was argued that the pay fixation order No.R3/4436/2008 dated 09.02.2013 passed by the third respondent giving benefit with retrospective effect with the approval of the second respondent in compliance of the above said Order of the High Court in respect of the 52 teachers is not related to the petitioner and therefore she had no locus standi to challenge the same. All of the above arguments cannot take away the right to pay parity of the petitioner or justify the inconsistent stand of the University.

8. It was submitted on behalf of the respondents that the para 1 in page 3 of the pay fixation order dated 09.02.2013 sought to give only notional pay fixation and paper increment from the date of eligibility for promotional post and monetary benefit was extended only from the actual date of joining the promotion post. Contrary to the decision in the said order, the petitioner had sought monetary benefit from the date of eligibility ie. from 27.07.1998 which is in deviation of parity with the above order implemented by the respondents in compliance of the order dated 27.09.2012 in WP.No.9450 of 2011. It was submitted on behalf of the respondents that in the event the petitioner makes an application for parity with the pay fixation order dated 09.02.2013, necessary action will be taken by the second respondent.

9. Now, there is no dispute that the petitioner became eligible for promotion to the post of Associate Professor with effect from 27.07.1998 and to the post of professor with effect from 15.07.2005 under CAS. That the notional fixation of pay and paper increment has to be given to the petitioner from the date of eligibility for promotion under the CAS irrespective of the date of clearing the interviews respectively for the posts of Associate Professor and Professor is also not disputed by the respondents. The Principal Bench of this court in WP.No.9450 of 2011 had affirmed the above position. This court is of the firm view that any deviation from the above position in respect of pay fixation will disturb pay parity and will bring disastrous results affecting the morale of the teachers. In the context of the case, disentitlement of any of the benefits entitled in terms of the above position in respect of the pay of the petitioner will only give credence to the suspicion that the petitioner is subjected to vendetta as alleged by her.

10. The plea taken by the respondents that the petitioner had not challenged the pay fixation orders in respect of her pay is of no avail to them. It is so because it is the duty and obligation of the employer to fix and draw the correct pay that is legitimately due to the petitioner. Therefore, the respondents' suggestion to file a fresh application seeking parity is unreasonable, very

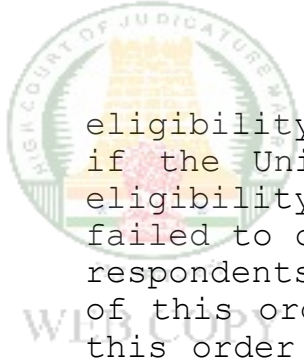


particularly in the historical context of the case. It is sickening to note that on the one hand, it was argued on behalf of the respondents that the Order dated 27.09.2012 in WP.No.9450 of 2011 is not applicable to the petitioner as she is not a party to the said writ petition and that the order dated 10.03.2010 of the second respondent does not allow pay parity to the petitioner, while in the same breath it is added that the pay parity is maintained to the petitioner vis a vis the other teachers.

11. The only question that is meaningfully disputed by the respondents is whether monetary benefits will be given retrospectively for the period from the date of eligibility to the actual date of promotion under CAS. The petitioner became eligible for the post of Associate Professor with effect from 27.07.1998. She appeared for CAS interview on 2002. The reason why she did not clear the interview between 1998 and 2002 will determine the eligibility of monetary benefits in pay fixation upon promotion. CAS is common standards for all Universities under the UGC. Therefore, the teachers are entitled for pay parity not only within the same University but also with similarly placed teachers from similarly placed Universities. If CAS interview is not conducted by the University as required under the CAS, the monetary benefits have to be given from the date of eligibility for the promotion post upon clearing the interview. If the CAS interview is conducted by the University in compliance of the obligations under CAS and the incumbent failed to appear or clear the interview, then the monetary benefit will be applicable only from the date of actual promotion. Therefore, where the University defaults or fails to conduct the CAS Interview at the periodicity as required under CAS in respect of any teacher/staff, then monetary benefits have to be given from the date of eligibility of the teacher to the promotion post upon clearing the CAS interview irrespective of the number of attempts taken to clear the interview. The benefit of multiple attempts is consciously stated to ensure that the teacher should not suffer from double jeopardy on account of the fault of the University.

12. In view of the above, the petitioner is absolutely entitled to revised pay fixation effective 27.07.1998 in the Scale of Pay for the post of Associate Professor and re-fixation effective 15.07.2005 in the Scale of Pay for the post of Professor. From the records available before the court, the petitioner is absolutely entitled for notional fixation and awarding of paper increments from the respective dates of eligibility to the promotional posts. Accordingly, all and the portion of orders of the respondents that come in the way of the respondents to grant the above relief is set aside. For clarity, the petitioner will be entitled to draw equal pay as that of her colleague who joined the university in the same year in the same/similar post.

13. With regard to the question of arrears of pay, the petitioner will be entitled to arrears from the date of eligibility if the University failed to conduct CAS interview in the year of



eligibility of the petitioner or from the date of actual promotions if the University had conducted the interview on every years of eligibility of the petitioner and the petitioner abstained from or failed to clear the interviews conducted in each of those years. The respondents are directed to refix the pay of the petitioner in terms of this order within a period of 4 weeks from the date of issue of this order along with the arrears of pay wherever eligible in terms of this Order.

14. The Writ Petitions are allowed on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS )

To

1)The Registrar,  
The Tamilnadu Agricultural University,  
Coimbatore-641 003.

2)The Vice Chancellor,  
The Tamilnadu Agricultural University,  
Coimbatore-641 003.

3)The Dean,  
Agricultural College and Research Institute,  
Madurai, Madurai District-625 104.

4)The Secretary to Government,  
Department of Agriculture,  
Fort St.George,  
Chennai-9.

5)The Director of Local Fund Audit,  
Kuralagam Buildings,  
Chennai-108.

+2 CC to Mr.A.THIRUMURTHY, Advocate SR-78371, 78372  
+2 CC to Mr.I.SUTHAKARAN, Advocate SR-78533, 78534

W.P (MD) Nos.11270 of 2006  
and 3874 of 2013  
30.07.2019

BALA