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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2021

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.22249 of 2009

Dr.Sangeetha Panicker

...Petitioner

Vs.

1. The Chairman,
University Grants Commission,
Bahadurshah Zaffar Marg,
New Delhi-110 002.
(R1 deleted as per order dated 14.9.2011
by this Court in WP.No.22249/2009)

2. The Government of Tamil Nadu,
Represented by its Secretary,
Agricultural Dept.,
Fort St. George, Chennai-600 009.
(R2 deleted as per order dated 13.9.2021
by this Court in WMP.No.2690/2018)

3. The Registrar,
Office of the Registrar,
Tamil Nadu Agricultural University,
Coimbatore-641 003.

4. The Director,
Tamil Nadu Agricultural University,
Local Fund Audit, Coimbatore-3.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the fourth respondent dated 30.09.2009 made in No.K.Dis./1079/A3/2000 and the consequential proceedings of the third respondent dated 09.10.2009 made in No.A2/4176/2008 to the Head of the Department of the petitioner, directing to implement a fitment duly approved vide Annexure to the proceedings dated 30.09.2009, in so far as the pay fixation statement of the petitioner is concerned and quash the same.



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For Petitioner : Mr.R.Sivakumar

For Respondents: Mr.Abdul Saleem (R3)
Standing Counsel
Mr.S.John.J.Raja Singh (for R4)
Government Advocate

ORDER

The petitioner had joined the services of the Tamil Nadu Agricultural University in 1989 (R3/University), in the post of Assistant Professor. She obtained a doctorate in Plant Pathology in the year 1996. The first respondent i.e. The Chairman, University Grants Commission (UGC) had formulated a scheme providing for career advancement under which various norms were suggested to provide for advancement of careers of the teaching staff, as a measure to redress the stagnation of qualified persons in service.

2. In line with the scheme formulated by the UGC, a notification came to be issued by R3 bearing G.O.(Ms.) No.270 dated 08.10.2001. The scheme provided for various avenues of career advancement, one of them being promotion from the Assistant Professor to the post of Associate Professor. At clause 2.4, the process of promotion is set out as follows:

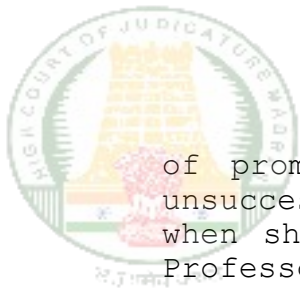
(2.4). Promotion to the pose of Associate Professor:

Promotion to the post of Associate Professor will be through a process of selection by a Selection Committee to be set up by the appointing authorities.

The minimum service in the cadre of Assistant Professor (Senior Scale) could be relaxed if the incumbent possesses a Ph.D. Degree and a total service of nine years and more for promotion as Associate Professors.

3. The incentives stated under the aforesaid G.O. were to be given effect to from 27.12.1998 and the G.O. states that the teachers governed by UGC Scales of pay i.e. those under R3 as well as other Universities in Tamil Nadu, will be granted the benefit arising therefrom.

4. Pursuant to a call for the interview for the post of Associate Professor by the Committee constituted for the purpose



of promotion, the petitioner appeared on 01.11.2001, but was unsuccessful. She attended the second meeting on 04.01.2003, when she was successful and promoted to the post of Associate Professor.

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5.A discrepancy arose in the quantification of the benefits under G.O.(Ms.) No.270, insofar as the retrospective benefit provided under G.O.(Ms.) No.270 was extended only in respect of those employees, who had been successful in the first meeting itself, that is, the meeting conducted on 01.11.2001 whereas, in respect of those who had been successful in the second meeting, that is, the meeting conducted on 04.03.2003, the benefits were granted only with effect from that date, that is 04.01.2003.

6.Several employees were affected by virtue of the aforesaid discrimination and 52 such persons approached this Court in W.P.No.9450 of 2011. The discrimination had arisen by virtue of an objection raised by Local Fund Audit, who had expressed the view that a different approach should be adopted in regard to the two groups of employees who had attended the committee meetings, one successful in the first round and the other, who had been successful only in the second attempt. This Court found the distinction to be bad in law concluding that even those employees who had been successful in the second attempt should be equated with those successful in the first attempt and extended the benefit of retrospective relief from effective date of the G.O. i.e. 27.12.1998.

7.The writ petition was allowed, the impugned order in that writ petition set aside and the respondents were directed to re-examine the matter in line with G.O.(Ms.) No.270. The Court categorically stated that since persons who are identically placed as the petitioners had been granted a particular benefit, the petitioners should not be deprived of a similar benefit. Pursuant to the aforesaid order, those that have been successful in the second attempt had been granted benefit under G.O.(Ms) No.270.

8.R3 University has, admittedly, accepted the position that the distinction sought to be made by Local Fund Audit has no validity in the eyes of law. The impugned order is thus set aside. The petitioner shall be granted all benefits with effect from the effective date of G.O.(Ms) No.270 i.e. 27.12.1998.

9. In this particular case, a distinction on facts is that the petitioner was granted retrospective benefit from 27.12.1998 till 20.04.2009. However, vide impugned order dated 30.09.2009, the audit objection was revived and pay fixation was revised in line with the objections. Recovery was also proposed. Despite



an order of interim stay granted by this Court, made absolute on 21.09.2011, recovery has been effected, according to learned counsel for the petitioner. Let this aspect of the matter be looked into and the amount recovered be refunded forthwith. The full benefit of the G.O., from date of retrospective amendment till date, be paid over within a period of four weeks from today.

10.This writ petition is allowed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Registrar,
Office of the Registrar,
Tamil Nadu Agricultural University,
Coimbatore-641 003.
2. The Director,
Tamil Nadu Agricultural University,
Local Fund Audit, Coimbatore-3.

+lcc to Mr.R.Sivakumar, Advocate, S.R.No.46191
+lcc to Mr.Abdul Saleem, Advocate, S.R.No.46756
+lcc to the Government Pleader, S.R.No.46494

W.P. No.22249 of 2009

JPL(CO)
RGA(16/12/2021)