



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 22.04.2022
PRONOUNCED ON : 26.04.2022

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THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.NO.17305 OF 2010

Tamil Nadu Agricultural University
Pensioners Association,
TNAU Campus, Coimbatore 641 003.
Rep.by its President,
S.Muthuswami

...Petitioner

Versus

- 1.Secretary to Government,
Agricultural (AU) Department,
Secretariat, Chennai - 600 009.
- 2.The Registrar,
Tamil Nadu Agricultural University,
Coimbatore - 641 003.
- 3.The Director,
Local Fund Audit,
Kuralagom,
Chennai 600 108.

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the letter No.27306/au/2002-5, dated 13.02.2003 sent by the first respondent and quash the same and thereby directing the respondents to sanction the two incentive increments notionally to all eligible Assistant Professors/Associate Professors/Professors, as on 01.01.1996 or eligible date for having acquired Ph.D. degree and to grant the monetary benefit with effect from 27.07.1998 to all the eligible beneficiaries, retired on superannuation or voluntarily and to settle the consequential arrears of salary, pension and retiral benefits.

For Petitioner : Mr.A.R.Nixon

For Respondents : Ms. E. Renganayaki, (R1 & R3)
Additional Govt. Pleader.
: Mr.Abdul Saleem (R2)



O R D E R

The petitioner is an Association of employees who are/were working in the second respondent university/Tamil Nadu Agricultural University, Coimbatore. This Writ Petition has been filed for and on behalf of 38 persons mentioned in paragraph No.2 of the affidavit filed in support of this petition, who all possess the qualification of a Ph.D. degree and who are all retired from the services before 24.12.1998.

2.The grievance of the petitioner association is that by G.O.Ms.No.270, dated 08.10.2001, incentives for the acquisition of Ph.D. degree was granted in the form of four increments, if they hold Ph.D. degree at the time of recruitment and one increment if they acquire within three years of recruitment and two advance increments in case of Assistant Professors. The said Government order mentions that all the incentives granted will be effective on 24.12.1998. After the Government passed G.O.Ms.270, clarifications were sought on several issues including the grant of these advances in respect of whether the teachers who retired from services prior to the date of 27.02.1998 are eligible, and by the letter dated 13.02.2003, it was clarified that they will not be eligible.

3.Subsequently, the Government had ordered to grant UGC pay scale to all of the teachers working in the second respondent's university with effect from 01.01.1996. Therefore, the petitioner's association made a representation dated 23.12.2008 that on similar basis the benefit of grant of incentive increment for acquisition of Ph.D. degree may also be granted with effect from 01.01.1996. The said representation was considered and however, negatived by the order dated 13.11.2009, stating that the grant of advance increment is by G.O.Ms.No.270, dated 08.10.2001, which had categorically fixed the cut-off date to be effective from 24.12.1998.

4.The present Writ Petition is filed for Certiorarified Mandamus to quash the order dated 13.02.2003 and to grant the advance increments from the dates of which the members of the petitioner's association become eligible. The Writ Petition is resisted by filing of separate counter affidavits by all the respondents and it is their stand that when the G.O, itself is very clear that it will be effective only from 24.12.1998, it cannot be granted to the persons retired from services before such dates. The Government has categorically stated that ICAR (Indian Council of Agriculture Research) also clarified that the carrier advance scheme itself is with effect from 27.08.1998, therefore the members of the petitioner association having retired prior to coming into force the carrier advance scheme as well as the date of grant of advance increment, are not entitled for the same.



5. Heard, Mr.A.R.Nixon, learned counsel for the petitioner and Ms.E.Renganayaki, learned Additional Government Pleader appearing for the respondents.

6. It is the contention of the learned counsel for the petitioner that the teachers have put in their valuable time in pursuing the research and were duly awarded Ph.D. degree. Their services as such was utilized by the University and when the increment is granted, the 38 persons mentioned in the affidavit alone holding Ph.D. degree were denied the same by fixing a cut-off date in an artificial manner as such the members of the petitioner's association, who had retired before such dates are also entitled for the same.

7. Per contra the learned Additional Government Pleader appearing for the respondents would submit that the grant of advance increment is a service benefit conferred by the Government by framing a specific scheme, it has been granted/extended. While framing the scheme, the Government is bound to fix a cut-off date for implementation taking into account factors which it deems fit. The members of the petitioner's association, who have retired from service even before the scheme of advance increment was implemented, cannot claim the benefit.

8. I have considered the rival submissions made on behalf of both sides and perused the material records of the case. In this case, while implementing the scheme for grant of advance increment which is only in the nature of service benefit, employer viz., the Government has fixed it from becoming operational, by fixing the cut-off date for the purpose of grant service benefit, and it cannot be held to be arbitrary and such cut-off dates is held to be permissible by the Hon'ble Supreme Court of India, in case of State of H.P. v. Rajesh Chander Sood¹, held as follows :-

"75..... A cut-off date can, therefore, legitimately be prescribed for extending pensionary benefits, if the funds available cannot assuage the liability, to all the existing pensioners. We are, therefore, satisfied to conclude that it is well within the authority of the State Government, in exercise of its administrative powers (which it exercised, by issuing the impugned Repeal Notification dated 2-12-2004) to fix a cut-off date, for continuing the right to receive pension in some, and depriving some others of the same. This right was unquestionably exercised by the State Government, as determined by this Court, in

1 (2016) 10 SCC 77



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R.R. Verma case [R.R. Verma v. Union of India, (1980) 3 SCC 402 : 1980 SCC (L&S) 423] , wherein this Court held that the Government was vested with the inherent power to review. And that the Government was free to alter its earlier administrative decisions and policy.."

9. Therefore, the retired members of the petitioner's association have no right whatsoever to challenge the said cut-off date. The Learned Counsel for petitioner would further contend that initial prescription of cut-off date was on the basis of extension of UGC pay and once that said date is revised, the petitioners should also be held to be entitled; First, such request of the petitioner was rejected specifically by an order dated 13.11.2009, and the same is also not challenged in the present Writ Petition. Secondly, the ICAR has clarified that it has got to do with the implementation of the Career Advancement Scheme also. Thirdly, as held above in the Judgment of the Hon'ble Supreme Court, even after revising the date of extension of UGC pay, the respondents were well within their right in not extending the advance increment scheme.

10. Apart from merits, this writ petition is also claiming individual service benefits to the employees mentioned in paragraph No.2 of the affidavit filed in support of the writ petition and therefore, the association is not entitled to file this writ petition.

11. For all the above reasons, the Writ Petition fails and is accordingly dismissed. There shall be no order as to costs.

Sd/-
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

klt

To

1. The Secretary to Government,
Agricultural (AU) Department,
Secretariat,
Chennai - 600 009.
2. The Registrar,
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Coimbatore - 641 003.



3.The Director,
Local Fund Audit,
Kuralagom,
Chennai 600 108.

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+1cc to M/s.A.R.Nixon, Advocate Sr.No.28962

W.P.No.17305 of 2010

SSN(CO)
RVM(10/05/2022)