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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 12.01.2022
PRONOUNCED ON : 09.02.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.Nos.26018 to 26033 & 30231 to 30233 of 2016
and
Connected Miscellaneous Petitions

Dr.R.Ganesh	... Petitioner in WP.No.26018 of 2016
Dr.C.Radhakrishnan	... Petitioner in WP.No.26019 Of 2016
Dr.RA.Muralidharan	... Petitioner in WP.No.26020 of 2016
DR.R.Parthasarathy	... Petitioner in WP.No.26021 of 2016
DR.B.Nagarajan	... Petitioner in WP.No.26022 of 2016
Dr.S.Piramanayagam	... Petitioner in WP.No.26023 of 2016
Dr.Prabakar Gnanamuthu Edwin	... Petitioner in WP.No.26024 of 2016
Dr.V.Ramasamy	... Petitioner in WP.No.26025 of 2016
Dr.B.Chandra Bose	... Petitioner in WP.No.26026 of 2016
Dr.S.Gomathinayagam	... Petitioner in WP.No.26027 of 2016
Dr.R.Ramasamy	... Petitioner in WP.No.26028 of 2016
Dr.S.Arunachalam	... Petitioner in WP.No.26029 of 2016
Dr.N.Meganathan	... Petitioner in WP.No.26030 of 2016
Dr.M.Raman	... Petitioner in WP.No.26031 of 2016
Mary Premkumar V.Thomas	... Petitioner in WP.No.26032 of 2016
Shoba david	... Petitioner in WP.No.26033 of 2016
Dr.P.S.Thirunavukkarasu	... Petitioner in WP.No.30231 of 2016



Dr.N.Rajendran

... Petitioner in WP.No.30232 of 2016

Dr.K.Ramanujam

... Petitioner in WP.No.30233 of 2016

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Vs.

1.The State of Tamil Nadu
rep. by its Secretary,
Department of Animal Husbandry and Fisheries,
Fort St. George,
Chennai-600 009.

2.Tamil Nadu Veterinary and
Animal Sciences University,
rep. by its Registrar,
Madhavaram Milk Colony,
Chennai-600 051.

... Respondents 1 & 2 in all Writ Petitions

COMMON PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent herein in his Letter No.13406/R3/2014 dated 07.06.2016 and to quash the same and consequently, to direct the second respondent to place the petitioner as Professor (CA) from the date of attaining eligibility in accordance with G.O.Ms.No.274 dated 25.10.2013 and to refix the pensionary and other monetary benefits with arrears of pay of the petitioner from the date he is placed as Professor (CA).

For Petitioners : Mr.R.Syed Mustafa
in all W.Ps.

For Respondent-1 : Mr.C.Selvaraj, AGP
in all W.Ps.

For Respondent-2 : Mr.S.Vijayakumar
in all W.Ps.

C O M M O N O R D E R

Heard the learned counsel for the parties.

2. All the petitioners herein, who were originally appointed in the Department of Animal Husbandry and Fisheries (AHF) of the State Government, were transferred to the Tamil Nadu Veterinary and Animal Sciences University [hereinafter



referred to as "Veterinary University"] on their willingness and were accordingly directly recruited. In accordance with G.O. (Ms) No.257, Animal Husbandary & Fisheries (AH6) Department, dated 01.11.1994 and other like Government Orders, their past services in the AHF Department were directed to be counted for the purpose of career advancement in the Veterinary University. When these Government Orders were challenged by some of the directly recruited teachers of the Veterinary University, in W.A.No.1615 of 2003 [Dr.Vajravelu Jayakumar & 19 Others Vs. Dr.L.Gunaseelan & 32 Others] dated 23.04.2003 and in W.P.Nos. 2367 and 2368 of 2003 dated 16.07.2003 [Dr.Piramanayagan & Others V. Dr.Selvan and 3 others] , an Hon'ble Division Bench of this Court, by its order dated 23.04.2003, had clarified that, career advancement can either be by way of promotion or by way of incentive, enabling higher scale of pay, which would allure only for getting monetary benefits and not for promotion. In this background, all these petitioners were given the benefit under Career Advancement Scheme [CAS] as Assistant Professors (Senior Scale) and Assistant Professors (Selection Grade) in the same post of Assistant Professors, which enabled them to receive higher pay of scale and not promotion.

3. In G.O.No.149, AH & F (AH6) Department, dated 06.07.1999, orders for revision of UGC pay of scale to the teachers of the Veterinary University, including promotion under CAS were issued and in G.O.(Ms) No.270, Agriculture (AU) Department, dated 08.10.2001, guidelines for promotion to the teachers of the Veterinary University under CAS were issued. In order to extend the benefits of this Government Order on par with similarly placed teachers, the Government had issued G.O. (Ms).No.274, AH & F Department, dated 25.10.2013, amending G.O. (Ms) No.149, AH & F (AH6) Department dated 06.07.1999 as follows:-

"After the existing paragraph 2 of the said G.O., under the heading "Career Advancement Scheme" after item (V), the following shall be added as items (vi), (vii), (viii).

(vi)Extension of all the benefits of Career Advancement Scheme (CAS) from the date of attainment of eligibility though the selection was done at a later date.

(vii)The minimum service requirement of 8 years in the cadre of Associate Professor for the promotion as Professor can be relaxed, if the incumbent possess a Ph.D., degree and a total



service of 17 years and above.

(viii) The date of effect of "Career Advancement Scheme" shall be from 27.07.1998."

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4. The petitioners now seek for retrospective promotion to the post of Professor from the date of completion of 17 years of their total services, including their services at the AHF Department in accordance with G.O.(Ms) No.274, AH & F Department, dated 25.10.2013 in these Writ Petitions, by way of Career Advancement.

5. The learned counsel for the petitioners predominantly raised a ground stating that while the benefits of G.O.(Ms) No.274 dated 25.10.2013 was awarded to one Dr.S.Baegan, who is also a transferred employee from the AHF Department, by counting his entire service in AHF Department to meet the norms of 17 years of service under the Government Order, the claims of these petitioners, who were similarly placed as that of Dr.S.Baegan, has been rejected and hence would amount to discrimination.

6. The learned counsel for the Veterinary University submitted that, in accordance with the judgments of the Hon'ble Division Bench in Dr.Vajravelu and Dr.Piramanayagan (supra), the past services of the petitioners in the AHF Department were already counted for the purpose of giving benefits under the CAS and accordingly, their pay scale was upgraded to a higher pay scale as Assistant Professors (Senior Scale) and Assistant Professors (Selection Grade) and therefore, their present claim for retrospective notional promotion as Professors in accordance with G.O.(Ms) No.274 dated 25.10.2013, is not feasible. The learned counsel further submitted that the claims of two of the Professors in this regard, who are the petitioners herein also, were already rejected by the Veterinary University on 26.06.2015 itself and the present impugned order dated 07.06.2016, is only a reiteration of the earlier stand taken by the Veterinary University on 26.06.2015. Since the Government Letter dated 26.06.2015, was not challenged by these Professors, the present Writ Petition itself, is not maintainable.

7. As clarified and held by the Hon'ble Division Bench in the aforesaid two cases, namely Dr. Vajravelu and Dr. Piramanayagan (supra), the career advancement can be of two types. The first type can be by way of an advancement by promotion to a higher post and the second type by way of an advancement to the higher scale in the same post. As held by the Hon'ble Division Bench, the CAS is only for the personal



benefits of the persons concerned in the same post, and will not confer any right to seniority or promotion.

8. All the petitioners herein, who were already extended with the benefits of CAS, by advancing their pay scale to a higher scale as Assistant Professors (Senior Scale) and Assistant Professors (Selection Grade) and had gained thereby personal monetary benefits, cannot now seek in addition a retrospective notional promotion, in the guise of CAS in accordance with G.O.(Ms) No.274, dated 25.10.2013. The purpose of issuance of the amended G.O.(Ms) No.274, dated 25.10.2013, was that the teaching staff of the Veterinary University were promoted under CAS without the benefits of G.O.(Ms) No.270, Agriculture (AU) Department, dated 08.10.2001 and for rectifying the anomaly with the teachers of the Tamil Nadu Agricultural University. Such a benefit extended to them, cannot be taken advantage by the present petitioners herein, whose services in the AHF Department were already taken into account for the purpose of career advancement in the Veterinary University and extended with higher scale of pay. Thus, the very basis of which the petitioners' lay their claim, cannot be sustained.

9. The learned counsel for the petitioners sought to raise the ground of discrimination by quoting the case of Dr.S.Baegan, who was also a transferred employee from the AHF Department and was awarded the benefit of G.O.(Ms) No.274, dated 25.10.2013. The learned counsel for the Veterinary University placed reliance on the counter affidavit and distinguished the case of Dr.S.Baegan with that of the petitioners herein.

10. Dr.S.Baegan was transferred to the Veterinary University under the provisions of the Tamil Nadu Veterinary and Animal Sciences University Act, 1989, when the entire Government Dairy Farm at Madhavaram Milk Colony, was transferred along with men and materials to the Veterinary University, for establishment of a Research Centre under the orders of the Government. Whereas the petitioners herein had come to the Veterinary University on their own willingness as Assistant Professors by way of recruitment. Under the provisions of the Act, the Government had issued orders to consider the services rendered by all these transferred employees in the AHF Department for the Veterinary University Services and hence, the benefits of G.O.(Ms) No.274 dated 25.10.2013, was extended to him. When Dr.S.Baegan was transferred along with all the other technical, para-technical, ministerial, basic servants and time scale Mazdoors together with the animals, land and buildings, the Government had issued specific orders for these transferred



employees in the AHF Department for calculating their earlier services with that of the Veterinary University Services. As such, Dr.S.Baegan would be entitled for the benefits of G.O.Ms.274 dated 25.10.2013, whereas the case of the petitioners herein, who were already extended with the CAS through personal monetary benefits cannot now seek for additional notional promotion on par with Dr.S.Baegan. I do not find any act of discrimination in this regard.

11. For all the foregoing reasons, there are no merits in the present Writ Petitions. Accordingly, all the Writ Petitions stand dismissed. Consequently, the connected Miscellaneous Petition(s) is/are closed, if any. There shall be no orders as to costs.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

DP

To

1.The Secretary,
State of Tamil Nadu
Department of Animal Husbandry and Fisheries,
Fort St. George,
Chennai-600 009.

2.The Registrar,
Tamil Nadu Veterinary and
Animal Sciences University,
Madhavaram Milk Colony,
Chennai-600 051.

+19cc to Mr.Syed Mustafa, Advocate SR.No.8293
+1cc to Mr.S.Vijayakumar, Advocate SR.No.8230
+1cc to the Special Government Pleader SR.No.9023 & 9024

W.P.Nos.26018 to 26033
& 30231 to 30233 of 2016
and

Connected Miscellaneous Petitions

RP(CO)
GN(17/02/2022)