



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.17595 of 2013

WEB COPY

Dr.A.Deivendran, Ph.D
Lecturer in Behavioral Science,
Department of Health Promotion and Education,
Gandhigram Institute of Rural
Health and Family Welfare Trust,
Soundaram Nagar,
Gandhigram Post,
Dindigul District - 624 302. ... Petitioner

VS

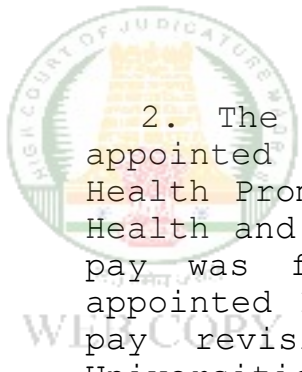
The Director,
Gandhigram Institute of Rural Health
and Family Welfare Trust,
Soundaram Nagar,
Gandhigram Post,
Dindigul District - 624 302. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of letter No.GIRH/ESTT/2012-2013/1249 dated 08.01.2013 on the file of the respondent and quash the same and further direct the respondent to fix Academic Grade Pay (AGP) at Rs.6000/- with effect from 09.06.2006 with monetary benefits from 1st January 2007 to 30.06.2010 and to fix Academic Grade Pay (AGP) at Rs.7000/- with effect from 01.07.2010 as per 6th Pay Commission's Recommendation.

For Petitioner : M/S.B.Chandran
For Respondent : M/S.G.Abarna
for M/S.M.Senthil Kumar

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order dated 08.01.2013 and further direct the respondents to fix Academic Grade Pay (AGP) at Rs.6000/- with effect from 09.06.2006 with monetary benefits from 1st January 2007 to 30.06.2010 and to fix Academic Grade Pay (AGP) at Rs.7000/- with effect from 01.07.2010 as per 6th Pay Commission's Recommendation.



2. The brief facts of the case are that the petitioner was appointed as Lecturer in Behavioural Science in the Department of Health Promotion and Education at the Gandhigram Institute of Rural Health and Family Welfare Trust with effect from 09.06.2006 and his pay was fixed at Rs.8000-275-13500. The Government of India appointed Professor GK Chadha Committee to make recommendation for pay revision of the teachers and equivalent cadres in the Universities and Government / Government aided Colleges / Institutions. Based on the recommendation, the UGC has issued notification. Following that the State Government has adopted and issued G.O.Ms.No.350, dated 09.09.2009. In Para B of G.O.Ms.No.350 read with Appendix 1 lays down the pay structure for the teachers as under:

i) "Persons entering the teaching professing in Universities and colleges shall be designated as Assistant Professors and shall be placed in the pay Band of Rs.15600-39100 with AGP of Rs.6000/-. Lecturers already in service in the pre-revised scale of pay of Rs.8000-13500. Shall be re-designated as Assistant Professors with the said AGP of Rs.6000.

ii) An Assistant Professors with completed service of 4 years, possessing Ph.D., Degree in the relevant discipline shall be eligible of moving up to AGP of Rs.7000/- subject to the condition that Ph.D., is a discipline which is relevant to the Department in which they are Assistant Professors."

In the present case, the petitioner's AGP has been fixed as Rs.5400/- with effect from 09.06.2006 with the monetary benefits from 1st January till date which is contrary to G.O.Ms.No.350 dated 09.09.2009. According to the petitioner the AGP ought to have been fixed as Rs.6000/- with effect from 09.06.2006 with monetary benefits from 1st January 2007 to 30.06.2010 and at Rs.7000/- with effect from 01.07.2010 to till date as the petitioner has completed four years service as Lecturer in the Behavioral Science. In spite of repeated representations, the respondent has not rectified the erroneously fixed the Grade Pay. The petitioner has again submitted a representation on 17.01.2013 explaining that G.O.Ms.No.350 may not be applicable to the respondent institute. But the State Government has issued G.O.Ms.No.95 Higher Education (C2) Department dated 05.05.2010 wherein it covers the institutions governed by All India Council for the Technical Education (AICTE), wherein the G.O. Ms. No. 350 is adopted, therefore at least the respondent ought to have conferred the benefits of G.O. Ms. No. 95.

3. The contention of the petitioner is when all the Institutes based on the 6th Pay Commission have revised the pay as Rs.8000-275-13500 scale with AGP of Rs.6000/-, there is no rationale to fix AGP



for the same post in scale as Rs.5400/- for the respondent Institute. Hence the petitioner has filed this writ petition, challenging the impugned order 08.01.2016, wherein, it has been stated that G.O.Ms.No.350 is applicable for teaching Staff of Universities, Government Colleges/Government Aided Colleges under UGC, but the respondent College is not governing under UGC and the claim of the petitioner was rejected.

4. The sole respondent has filed a counter affidavit stating that the petitioner is not coming under UGC. Since G.O.Ms.No.350, Higher Education (H1) Department, dated 09.09.2009 was passed following UGC recommendation, the same is not applicable to the respondent institute. The respondent Trust was formed in the year 1964 and it is an Autonomous Body which functions under the aegis of the Ministry of Health and Family Welfare, Government of India, New Delhi. The Institute has its Own Service Rule which is applicable to the employees of the respondent. Therefore, the petitioner's claim cannot be accepted and prayed to dismiss the writ petition.

5. The writ petition was listed on earlier two occasions and the respondents were directed to produce the minutes of Special Board meeting. Today when the case was taken up, the respondent had produced the minutes of Special Board meeting held by Trustees on 29.07.2009 and the decision of Board was incorporated under Clause-7, it has been stated as under:

7. *"A certificate from the Statutory Auditor as to the correctness of the Pay Fixation be obtained before implementation of the Revised Scales of Pay Option Forms (Undertaking from the staff) be obtained as per Schedule-IV of the G.O.Ms.No.234 dated 01.06.2009. The Local Fund Audit is likely to be conducted in August 2009. After verification of the correctness of the pay fixation of the staff in the revised scale of pay, the payment of the first installment of the arrears will be paid depending upon the cash flow."*

It has been clearly stated that the respondent had followed G.O.Ms.No.234 dated 01.06.2009 and on perusal of G.O.Ms.No.234 on Schedule-I, it has been stated that the Grade pay as 5400/- and the Government Order has also given illustration as under:

"An Assistant Director is drawing a basic pay of Rs.9,650/- as on 01.01.2006 in the existing scale of pay of Rs.8000-275-13500. Revised scale of pay applicable to the post of Assistant Director is Rs.15600-39100+Grade Pay of Rs.5,400/-. His pay in the revised scale shall be fixed as follows:



1.Existing Scale of Pay	: Rs.8000-275-13500
2.Pay Band applicable	: PB-3.Rs.15600-39100+5400
3.Existing Basic Pay as on 01.01.2006	: Rs.9,650/-
4.Pay after multiplication by a factor of 1086	: Rs.17,949/-
5.Pay in the Pay Band PB-3	: Rs17,950/-
6.Grade Pay (attached to the scale)	: Rs.5,400/-
7.Revised Basic pay = Total of pay in the Pay Band and Grade Pay (5+6)	: Rs 23,350/-"

6. Therefore, this Court is convinced that the respondent Institution is an autonomous body and had their own method of fixing the salary. In G.O.Ms.No.234, it has been clearly fixed the Grade Pay as Rs.5,400/-. Therefore, the petitioner is not entitled to claim the benefits of G.O.Ms.No.350.

7. The petitioner pointed out that in the Audit Report under Heading '18' REVIEW OF THE SERVICE REGISTER-FIXATION OF PAY IN THE PAY SCALES NOT AVAILABLE UNDER THE STATE GOVERNMENT, where it has been stated that for persons like S.Vijayalakshmi, Teaching Assistant, M.Malarvizhi Teaching Assistant, M.Chellamuthu Teaching Assistant, R.Kranthamalai Kanna, Teaching Assistant and A.Balakrishnam, Special Grade Librarian, while reviewing the Pay Fixation for these members, an observation was made as under:

"An extensive review may be conducted and the above pay scales may be regulated as per the existing rules of the State Government and the inadmissible excess payment, if any may be worked out and regularized accordingly and the fact to be intimated to audit."

8. An Audit report specifically and categorically stated that some favoritism are shown to the certain teaching staffs. Therefore, the respondents are directed to rectify the anomaly as stated in the report within a period of four weeks from the date of receipt of a copy of this order and report shall be placed before Audit. In future, the respondent shall take steps that Public Fund is not misused and favoritism is not shown in fixing of pay of the employees.

9. With this observation, the Writ Petition is dismissed. No costs.

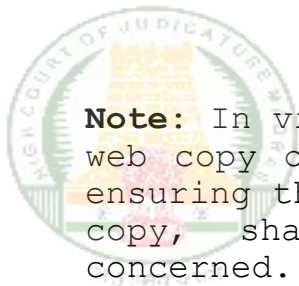
Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

WEB COPY

To

The Director,
Gandhigram Institute of Rural Health and Family Welfare Trust,
Soundaram Nagar,
Gandhigram Post, Dindigul District - 624 302.

+1 CC to M/s.M.SENTHIL KUMAR, Advocate (SR-6965[F] dated 18/02/2022)

+1 CC to M/s.B.CHANDRAN, Advocate (SR-7163[F] dated 18/02/2022)

Order made in

W.P. (MD) No.17595 of 2013

17.02.2022

SS (CO)

GC (31.03.2022) 5P 4C