



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

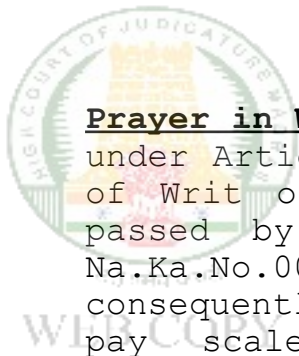
W.P.(MD) Nos.20489, 20491, 20539 to 20541 of 2019
W.M.P(MD).Nos.17129, 17131, 17134, 17172 to 17178 of 2019

G.Manoharan ... Petitioner in W.P(MD).No.20489 of 2019
G.Rajaram ... Petitioner in W.P(MD).No.20491 of 2019
A.Raviraja ... Petitioner in W.P(MD).No.20539 of 2019
K.Saravanaperumal ... Petitioner in W.P(MD).No.20540 of 2019
J.Nandakumar ... Petitioner in W.P(MD).No.20541 of 2019

Vs.

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Board,
Chennai-34.
- 2.The Joint Commissioner/Executive Officer,
Arulmighu Dhandayuthapani Samy Thirukovil,
Palani-624 601.
- 3.The Correspondent,
(Assistant Commissioner)
Arulmighu Dhandayuthapani Samy Thirukovil,
Palani-624 601.
- 4.The Principal,
Arulmighu Palaniandavar Polytechnic College,
Palani,
Dindigul District. ... Respondents in all petitions

Prayer in W.P(MD).No.20489 of 2019:-Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Ceritorarified Mandamus, to quash the impugned order passed by the third respondent herein in his proceedings in Na.Ka.No.805/A4/2015 dated 08.01.2016 and quash the same and consequently, directing the respondents 1 to 3 to pay minimum of the pay scale, revised from time to time for permanent lecturers in their respective department in their college namely Arulmigu Palaniandavar Polytechnic College, Palani, Dindigul District.



Prayer in W.P(MD).Nos.20491, 20539 to 20541 of 2019:- Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari/Mandamus, to quash the impugned order passed by the third respondent herein in his proceedings in Na.Ka.No.005/A4/2019 dated 14.06.2019 and quash the same and consequently, directing the respondents 1 to 3 to pay minimum of the pay scale, revised from time to time for permanent Lab Assistant/lecturers in their respective department in their college namely Arulmigu Palaniandavar Polytechnic College, Palani, Dindigul District.

In all writ petitions

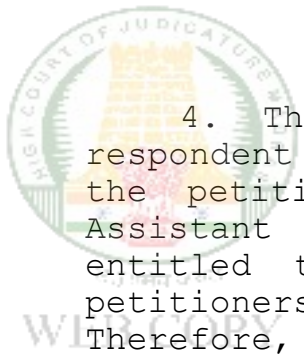
For Petitioner : Mr.Sarvagan Prabu
For Respondents : Mr.P.T.Thiraviam,
Government Advocate for RR1 and 2
Mr.K.Govindarajan
for RR3 and 4

C O M M O N O R D E R

The orders impugned dated 08.01.2016 and 14.06.2019 rejecting the claim of the writ petitioners for pay on par with the permanent Lecturers/Lab Assistant in Polytechnic College are under challenge in the present Writ Petitions.

2. The petitioners were appointed as Lecturers/Lab Assistant under consolidated pay on temporary basis.

3. The learned counsel appearing for the petitioners states that the petitioners were appointed by conducting process of selection and by attending interview. The third respondent/Polytechnic College is administered by Devasthanam of Arulmigu Dhandayuthapani Swamy Thirukovil, Palani. Two Polytechnic Colleges for women and men are functioning from the year 1981 and 1982 respectively. The grievance of the writ petitioners is that though they were appointed as Lecturers/Lab Assistant under consolidated pay on temporary basis, they were asked to perform the duties on par with the Regular Lecturers/Lab Assistant in the Polytechnic College. In view of the said fact, they are entitled for the salary in the regular time scale of pay sanctioned for other permanent lecturers/Lab Assistant working in the Polytechnic College. The learned counsel appearing for the petitioners reiterated that the principles of equal pay for equal work are to be adopted as the petitioners are also performing the same duties and responsibilities on par with regular lecturers/Lab Assistant working in the polytechnic college.



4. The learned counsel appearing on behalf of the third respondent College objected the said contention by stating that when the petitioners are not equals with the regular Lecturers/Lab Assistant appointed under the Recruitment Rules, they are not entitled to claim equal pay for equal work. Admittedly, the petitioners were appointed on temporary basis for consolidated pay. Therefore, as per their service conditions, they are engaged to run classes and attend lab duties. Therefore, the Management fixed the salary for such consolidated pay lecturers, who were engaged on temporary basis, as per their service conditions. Hence, the petitioners cannot seek equal pay on par with regular Lecturers/Lab Assistant, who were appointed in accordance with the All India Council for Technical Education Regulations (hereinafter "AICTE Regulations" for the sake of brevity).

5. This Court is of the considered opinion that the petitioners admittedly were appointed under consolidated pay on temporary basis. Therefore, they can claim equal pay based on the terms and conditions of the appointment. The salary with unequals cannot be compared for the purpose of the application of principles of equal pay for equal work. The principles can be applied only amongst equals, certainly, not amongst the unequals. The terms and conditions of the appointment are distinct and different. The appointment of the writ petitioners were on temporary basis under consolidated pay. Therefore, the Management fixed the salary for such consolidated pay employees as per their service conditions and therefore, they cannot claim salary attached to the regular post of Lecturers/Lab Assistants in the Polytechnic College. The procedures for appointment of regular Professors/Lab Assistant are entirely different. They are selected and appointed as per the Recruitment Rules in-force. Their fixation of salary is governed under the AICTE Regulations. Therefore, in respect of regular Lecturers/Lab Assistant, who were appointed as per the AICTE Regulations, the salary will be paid as per the norms fixed by All India Council for Technical Education. Therefore, the petitioners, who were appointed under consolidated pay, cannot claim salary on par with the regular Lecturers/Lab Assistant working in Polytechnic College.

6. In this regard, the Hon'ble Division Bench of this Court has made an observation in W.A(MD).No.577 of 2020 etc., dated 18.03.2021 as follows:-

10. The daily wages could not be treated at par with persons employed on regular basis because they were not required to possess minimum qualification prescribed for appointment of regular basis

11. According to the petitioners, as per proceedings, dated 29.01.2020 they are entrusted with Night watchman work with Office Assistant. Therefore, they are claiming that they are doing work equal to office assistant. But, the



qualification, responsibilities of reference posts are different from the subject posts.

12. The principle of equal pay for equal work can only apply if there is complete and whole sale identity between two groups. Even, if the employees in the two groups doing identical work they cannot be granted equal pay, if there is no complete and wholesale identity. Pay scale can be different, if nature of jobs, responsibilities, experience, method of recruitment are different as per Judgement reported in 2007 (8) SCC 279 in S.C. Chandru Vs. State of Jharkhand. 1

13. Fixation of pay scale is a delicate mechanism which requires various consideration including financial capacity, responsibility, educational qualification, mode of appointment, etc.

7. The learned counsel appearing for the petitioners brought to the notice of this Court that the impugned order states that the Management is unable to pay equal pay on account of financial strain. However, this Court is of the opinion that the petitioners are not equals on par with the regular lecturer/Lab Assistant appointed under the Recruitment Rules and irrespective of those factors, they are not entitled to claim equal pay on par with regular Lecturer/Lab Assistant recruited under the Rules and their salary is governed under the AICTE regulations.

8. In view of facts and circumstances, this Court do not find any infirmity or perversity in respect of the orders impugned passed by the third respondent. Accordingly, the Writ Petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RTI)

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Sub Assistant Registrar(CS)

ssb

To

1.The Commissioner,
Hindu Religious and Charitable Endowment Board,
Chennai-34.



2.The Joint Commissioner/Executive Officer,
Arulmighu Dhandayuthapani Samy Thirukovil,
Palani-624 601.

+1 CC to M/s.S. SARVAGAN PRABHU, Advocate (SR-17645[F]
dated 08/04/2022)

+1 CC to M/s.K. GOVINDARAJAN, Advocate (SR-17712[F]
dated 11/04/2022)

+1 CC to M/s.SPL.GP (SR-17914[F] dated 11/04/2022)

W.P.(MD) Nos.20489, 20491, 20539 to 20541 of 2019
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