



W.P.No.790 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	:	17.04.2023
PRONOUNCED ON	:	01.06.2023

CORAM :

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

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1. Deepa Priya

2. Ezhil Sarojini

3. Gastourybaye

4. Tenemojy

5. Gajalakshmi

... Petitioners

Vs.

1. The President,
Pondicherry State Co-operative Union,
Puducherry.

2. The Co-operative College of Education,
Rep. By its Principal,
Co-operative College of Education,
No.62, Suffren Street,
Puducherry.



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3. The Administrator,
Co-operative College of Education,
No.62, Suffren Street, Puducherry.

4. The Registrar,
Pondicherry University, Puducherry

... Respondents

** R4 impleaded as per order dated 23.07.2019 in W.M.P.No.20950/19*

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus, to direct the respondents to pay the petitioners' salary of Lecturer (Assistant Professor) with effect from the date on which the petitioners are appointed with arrears.

For Petitioners	:	Mr.V.Ajayakumar
For RR 1 to 3	:	Mr.R.Sreedhar Government Pleader (Pondy)
For R-4	:	Mr.M.Ravi

ORDER

Seeking for a direction to the respondents to pay the petitioners' salary of Lecturer (Assistant Professor) with effect from the date on which the petitioners are appointed with arrears, the petitioners have preferred the present writ petition.



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2. The case of the petitioners is that they are working as Lecturers in the Co-operative College of Education started by the Co-operative Union (under the Co-operative Department). Earlier, the College had issued a Notification, dated 02.04.2005, calling for application for the aforesaid post of Lecturer and sought for a list of eligible candidates from the Employment Exchange. On the basis of the said Notification and also with regard to the sponsorship of the Employment Exchange, the respondent Institution, after conducting interview by a duly constituted body and upon evaluating the performance of the candidates in the interview, the respondent Institution had selected the petitioners herein, who were in possession of M.Phil Degree in the concerned field, were appointed as Lecturers purely on temporary and on regular basis.

3. According to the learned counsel for the petitioners, the appointment of the petitioners was properly done by the respondents and so the Institution is bound to appoint the petitioners as Lecturers in regular salary in the pay scales fixed by the UGC. Whereas, the petitioners were



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appointed on consolidated pay of Rs.10,000/- per month, which is illegal.

Due to the poverty and the other family circumstances of the petitioners, the petitioners were forced to accept the said pay and are working from the date of appointment, i.e. from January 2006 onwards, at the consolidated pay as stated above.

4. According to the learned counsel for the petitioners, the appointment order is on regular basis and so placing the petitioners on consolidated basis is illegal. Moreover, on 15.11.2012, an order was issued by the Managing Director of the Puducherry State Co-operative Union Ltd., increasing the salary to Rs.15,000/- per month. Even though the petitioners are entitled to equal pay when compared to other Lecturers and salary on regular pay scale, the respondent Institution, who is bound to act as a model employer, has failed and adopted unfair labour practice.

5. It is the further contention of the learned counsel for the petitioners that the respondents have even started threatening the petitioners to terminate their service stating that they have to acquire NET/SLET qualification. He



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further stated that when the petitioners have been appointed as Lecturers, the petitioners possessed the qualification as per rules which were in existence at the time of appointment.

6. The learned counsel further submitted that the Government of Puducherry has regularised the services of 140 Lecturers, who do not possess the NET/SLET qualification, as provided by the UGC. The learned counsel for the petitioner submitted that the Government of Puducherry cannot apply different standard of rules to the Lecturers in Government College to that of the other Institutions, like that of the petitioners' College, run by the Government. According to the petitioner, the attitude of the respondents and the Government of Puducherry amounts to a clear case of discrimination and hence, prayed for allowing the writ petition, thereby issuing a direction to the respondents to pay the petitioners' salary of Lecturer (Assistant Professor) with effect from the date on which the petitioners are appointed with arrears.

7. On the other hand, the learned Government Pleader appearing on behalf of the second respondent would submit that the appointment of the



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petitioners is purely temporary and on regular basis and it has been mentioned that the same will be governed by the terms and conditions stipulated in the Memorandum cited and the lecturers selected are requested to acquire NET/SLET qualifications, as per the UGC norms. Moreover, the respondents vide its circular dated 16.09.2011 had clearly noticed that the University has reiterated adherence and fulfillment of NCTE/UGC/University Norms by the lecturers, i.e., all the faculties attached to Co-operative College of Education should get themselves qualified in NET/SLET or else the University has advised the Management to replace faculties, who fulfill the norms. The respondent had informed the faculties on many occasions by its circulars but the same was not complied by the petitioners herein.

8. Moreover, the University had finally sent a letter dated 24.10.2012 that the respondent college has to replace all ineligible faculty by qualified faculty within a maximum period of three months i.e., by 26.12.2012 failing which, the College will be disaffiliated from the University and no further correspondence will be entertained in this regard. Only upon receiving such a letter from the University, the respondent Institution has issued circulars to



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the petitioners, requesting them to complete NET/SLET qualification before the deadline of 26.12.2012, fixed by the Pondicherry University.

9. The learned counsel appearing for the 2nd respondent would submit that even though ample opportunities were given to the petitioners to comply with the University guidelines for acquiring the qualification of NET/SLET, the petitioners have not acquired the qualification before the deadline of 26.12.2012. He also stated that the petitioners are well aware of the State Eligibility Test criteria and the first petitioner has sent a letter dated 09.02.2013 stating that she has passed the SLET exam conducted on 07.12.2012 and the second petitioner, vide letter dated 04.02.2013 has intimated that she has also passed the SLET exam.

10. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

11. Admittedly, the petitioners are appointed on the basis of the Notification dated 02.04.2005 and the Rules which were in force at that time.



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Since the appointment of the petitioners is on regular basis, subsequent changes in the educational qualification cannot be applied to the petitioners. On 14.6.2006, the UGC has issued orders prescribing qualification stating that, 'they shall come into force with immediate effect'. In the UGC rules, it has also been stated that *"the candidates having M.Phil Degree in the concerned subject are exempted from the NET for UG level teaching itself only"*. All the petitioners herein possess M.Phil Degree at the time of notification and all the petitioners are appointed for Teaching only U.G. classes i.e. B.Ed. Degree. Hence, the rules which were issued on 14.6.2006 clearly permits that the petitioners are exempted from NET qualification.

12. It is also seen that on 1.6.2009, new Rules were issued by the UGC and it is stated in rule No.3 that, *"they shall come into force with effect from the date of their publication in the Gazetted of India."*. Hence, the new rules which were issued on 1.6.2009 are applicable only for future appointments and cannot be applied to the Lecturers who are appointed on regular basis in 2005 itself. As per 2009 Rules, the NET qualification or Ph.D. Qualification



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is necessary for appointment to the post of Assistant Professor, which is prospective and the petitioners are regularly appointed as Lecturers and they are governed by the 2000 and 2006 Rules and the above Rules were in vogue till it was replaced by the 2009 UGC Rules.

13. In the considered opinion of this Court, the attempt of the respondent-College to enforce 2009 UGC Rules and deny the pay scale attached to the post of Lecturer to the petitioners cannot be accepted as the 2009 UGC Rules is not having retrospective effect. Further the 2009 UGC Rules cannot be applied against the petitioners herein. On the contrary, the petitioners are entitled to get salary on par with the other Lecturers since they were appointed with the qualification as per the existing rules at the time of appointment against the “notified vacancies”.

14. For the reasons stated above, the Writ Petition is allowed. The respondents are directed to pay the petitioners salary in the pay scale of Lecturer (Assistant Professor) with effect from the date on which petitioners



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are appointed with arrears, within a period of four months from the date of receipt of a copy of this order. No costs.

01.06.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

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To:

1. The President,
Pondicherry State Co-operative Union,
Puducherry.
2. The Principal,
Co-operative College of Education,
No.62, Suffren Street,
Puducherry.
3. The Administrator,
Co-operative College of Education,
No.62, Suffren Street, Puducherry.
4. The Registrar,
Pondicherry University, Puducherry



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J.NISHA BANU, J.,

sts

Order made in
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Dated:
01.06.2023