



W.P.(MD)No.1034 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.1034 of 2016

and

W.M.P(MD)No. 853 of 2016

Dr.G.Indra Jasmine

... Petitioner

Vs.

1.The Tamil Nadu Veterinary and
Animal Sciences University,
Madhavaram Milk Colony,
Madhavaram,
Chennai – 600 051.
Represented by its Registrar.

2. The Public Information Officer,
The Tamil Nadu Veterinary and
Animal Sciences University,
Madhavaram Milk Colony,
Madhavaram,
Chennai – 600 051.

3. The State of Tamil Nadu,
Represented by its Secretary,
Department of Animal Husbandry & Fisheries,
Fort Saint George,
Chennai – 600 009.



W.P.(MD)No.1034 of 2016

WEB COPY

4. Tamil Nadu Fisheries University,
First Line Beach Road,
Nagapattinam – 611 001,
Represented by its Registrar.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, calling for the records relating to the issued by the Public Information Officer of the 2nd respondent University in Lr.No.537-805/DC/RTI/2015, dated 14.05.2015, quash the same, and further Direct the respondents herein to place the petitioner as professor w.e.f. 15.09.1998 with all attendant benefits on par with similarly placed persons for whom such benefits have been sanctioned and disbursed under G.O.Ms.No.274 Animal Husbandry, Dairying and Fisheries (AH6) Department, dated 25.10.2013.

For Petitioner	: Mr.K.Ragatheesh Kumar, for M/s.Isaac Chambers
For R-1 & R-2	: Mr.S.Vijayakumar
For R-3	: Mr.R.Suresh Kumar, Additional Government Pleader
For R-4	: Mr.Vijayshankar

ORDER

This writ petition is filed for *Certiorarified Mandamus*, to quash the impugned order, dated 14.05.2015 with consequential relief to place the petitioner



W.P.(MD)No.1034 of 2016

WEB COPY

as Professor, with effect from, 15.09.1998, with all attendant benefits on par with similarly placed persons for whom such benefits have been sanctioned and disbursed under G.O.Ms.No.274 Animal Husbandry, Dairying and Fisheries (AH6) Department, dated 25.10.2013.

2. The petitioner is qualified to be appointed for the post of Instructor / Research Assistant, with effect from 28.04.1976 and was appointed in Tamil Nadu Agricultural University (TNAU).

3. On 23.04.1977, the petitioner was transferred to the Agricultural College and Research Institute, Coimbatore, which is a constituent college of TNAU, Coimbatore. On 01.12.1977, the post of Instructor/Research Assistant was upgraded as Assistant Professor, consequently, the petitioner was upgraded as Assistant Professor and had worked as Assistant Professor for a period from 01.12.1977 to 31.07.1979 in the said college. On 01.08.1979, the petitioner was transferred to Agricultural College and Research Institute, Madurai. Again, on 19.06.1980, transferred to Fisheries College and Research Institute, Thoothukudi. On 20.09.1989, Tamil Nadu Veterinary and Animal Sciences University



W.P.(MD)No.1034 of 2016

WEB COPY

(hereinafter referred to as TANUVAS) was formed by bifurcating TNAU and segregating the faculties. On 20.09.1989, the petitioner was absorbed from TNAU to TANUVAS with all service benefits and served in Fisheries College and Research Institute, Thoothukudi, till 07.01.1990. On completion of 12 years and one month of service as Assistant Professor, the petitioner was placed as Assistant Professor (Senior Scale) on 08.01.1990. On 30.11.1992, the petitioner was granted Selection Grade and placed as Assistant Professor (Selection Grade) and served until 13.03.2002. On 15.09.1998, the petitioner has successfully completed the Ph.D. program in Bio-Chemistry. Totally, the petitioner has put in 25 years, 3 months of service, as Assistant Professor, but under various grades.

4. In the year 1989, the University Grants Commission has revised scales of pay with retrospective effect from 01.01.1986 (UGC Scales of Pay – 1986). This revision has brought in uniformity in emoluments, service conditions and grievance removal mechanism throughout the country. Based on which, the Tamil Nadu Government has issued G.O.Ms.No.208, dated 27.03.1989 and revised the scale of pay, with effect from 01.01.1986 and was implemented. Thereafter, the University as well as the UGC had provided Career Advancement



W.P.(MD)No.1034 of 2016

WEB COPY

Program for the purpose of re-designation of the Assistant Professors (selection grade) as Associate Professors and the candidate with Ph.D. and 13 years of service in the cadre of Assistant Professor is eligible for the same. For this, in May 1997, applications were called for, but the petitioner could not get the Ph.D. degree in the year 1997. But, TANUVAS did not call for applications after 1997 for the Career Advancement Program. Hence, several representations were submitted requesting the Universities to grant the benefits under Career Advancement Program. In July 1999, the University Grants Commission has announced revision of scales of pay, which came into force after the Government has accepted the proposal of the UGC and the Indian Council of Agricultural Research and passed G.O.Ms.No.149, Animal Husbandry and Fisheries (AH 6) Department, dated 06.07.1999. The new norms had retrospective application, with effect from 01.01.1996. Revised norms were prescribed for Career Advancement Program. The qualification for the post of Associate Professor is concerned, one should have put in total of 9 years of service as Assistant Professor and Assistant Professor (Senior Scale) with Ph.D. If, Ph.D. Degree is not there, then the candidates should have put a combined service of 11 years as Assistant Professor and Assistant Professor (Senior Scale) for placement as



W.P.(MD)No.1034 of 2016

WEB COPY

Assistant Professor (Selection Grade) which had the equivalent pay as that of Associate Professor. In so far as the qualification of the Professor, one should have put in total 8 years of service as Associate Professor, if he possessing Ph.D.

5. The contention of the petitioner is, he has attained eligibility on 15.09.1998, as per the UGC norms 1996. But the petitioner was denied about 3 years and 6 months of promotional service of Associate Professor. Later, after time gap of 4 years on 15.05.2001, the TANUVAS called for application for placements under the Career Advancement Scheme for both Associate Professor and Professor and the petitioner had applied for both on 18.06.2001. Thereafter, the petitioner was promoted as Associate Professor on 14.03.2002 under the UGC Career Advancement Scheme only on 14.03.2002. The next promotional post is the post of Professor. Due to the anomaly created by the 1st respondent in computation of petitioner service, the petitioner was pushed back in seniority and placed on par with the juniors.

6. The contention of the petitioner is, the respondents ought to have considered for placement as Professor, under the Career Advancement Scheme,



W.P.(MD)No.1034 of 2016

WEB COPY

since the petitioner has put up more than 17 years of service. On 12.07.2004, the petitioner gave a representation and the same was not considered. Again, the petitioner has submitted another representation on 07.03.2005 to the Registrar, TANUVAS. The Registrar of TANUVAS has refused to consider the representation on 07.04.2005. Aggrieved over the same, W.P(MD)No.5016 of 2017. Pending writ petition, the 3rd respondent brought amendment to G.O.Ms. No.149, Animal Husbandry, Dairying and Fisheries (AH6) Department, dated 06.07.1999, vide G.O.(MS)No.101 Animal Husbandry, Dairying and Fisheries (AH6) Department, dated 30.06.2010. The 3rd respondent has also issued G.O.Ms.No.41, Animal Husbandry, Dairying and Fisheries (AH6) Department, dated 15.03.2010, revising the scales of pay, wherein the petitioner was also granted relief. Subsequently, in the year 2012, the 4th respondent University, namely, Tamil Nadu Fisheries University was formed by bifurcating Tamil Nadu Veterinary and Animal Sciences University segregating fisheries faculties. Thereafter, in the year 2013, the 3rd respondent brought an amendment to G.O.Ms.No.149, Animal Husbandry, Dairying and Fisheries (AH6) Department, dated 06.07.1999 through G.O.Ms.No.274 Animal Husbandry, Dairying and Fisheries (AH6) Department, dated 25.10.2013 extending the benefits of Career



W.P.(MD)No.1034 of 2016

WEB COPY

Advancement Scheme from the date of attainment of eligibility, though selection was made at a later stage and further relaxing the minimum service requirement of 8 years in the cadre of Associate Professor for promotion as Professor if the individual possess a Ph.D. and put in a service of 17 years of service and above. The G.O. further states that the benefits would be granted with effect from 27.07.1998.

7. The contention of the petitioner is that the said G.O. was given effect to the Fisheries Department from 24.10.2013, however the petitioner was not granted the benefits and the respondents had placed the petitioner's name as “retired staff”, meaning the retired staffs are not entitled to the benefits. Hence, the petitioner is before this Court.

8. The official respondents have filed counter stating the as per G.O. 4D.No.4 Animal Husbandry and Fisheries (AH6) Department dated 03.05.1991, the petitioner along with other those who were working in Tamil Nadu Agricultural University (TNAU) was allotted to Tamil Nadu Veterinary and Animal Sciences University (TANUVAS) to become employees of employees of



W.P.(MD)No.1034 of 2016

WEB COPY

TANUVAS and ceased to be the employee of TNAU. The petitioner has joined TANUVAS on 01.01.1992 only. Having joined TANUVAS, the petitioner is erroneously comparing with TNAU with regard to Career Advancement Scheme. The TANUVAS is functioning as a separate University from 20.09.1989. The G.O.Ms.No.149 dated 06.07.1999 have revised the scale of pay to the teaching staff of the University with Career Advancement benefits by UGC / ICAR. The University implemented the G.O. with the approval of the Board of management and had revised the scale of pay to the teaching staff with effect from 01.01.1996 and there is no provision for retrospective effect. Whereas in G.O.Ms.No.270 dated 08.10.2001 to TNAU made specific provisions to give all the benefits from the date of attainment of service eligibility of the individual through selection is done at a late date. Without specific provision the TANUVAS could not provide such benefits retrospectively, as in TNAU. Moreover, the ICAR has issued clarification in this regard in letter dated 19.04.2001. The Board of Management has scrutinized all the application (78) including the petitioner's application for re-fixing the retrospective date of promotion as Professor on completion of a total service of 17 years and above on or after 27.07.1998 among the professors who were appointed from the cadre of Associate Professor with Ph.D. under



W.P.(MD)No.1034 of 2016

WEB COPY

G.O.Ms.No.274 to the original G.O.'s in G.O.Ms.No.149, G.O.Ms.No.101 and Circular No.13406/R.3/2013 dated 18.12.2013. The committee granted promotion to 41 teaching staff since they are fully qualified and they were appointed as professor on merit by selection committee under CA scheme on par with the similarly place teaching staff of TNAU. But the committee declined to grant retrospective promotion to 20 persons since they were already granted appointed as Professor under G.O.Ms.No.41 dated 15.03.2010. Moreover, the petitioner is a retired staff, he is not entitled to the benefits of the said G.O. Hence the respondents prayed to dismiss the writ petition.

9. Heard Mr.K.Ragatheesh Kumar, for M/s.Isaac Chambers, learned counsel appearing for the petitioner and Mr.S.Vijayakumar, learned counsel appearing for the respondents 1 & 2 and Mr.R.Suresh Kumar, learned Additional Government Pleader appearing for the 3rd respondent and Mr.Vijayshankar learned counsel appearing for the 4th respondent. Perused the material documents available on record.



W.P.(MD)No.1034 of 2016

WEB COPY

10. After hearing rival submissions this Court has given its anxious consideration. The contention of the 1st respondent is that the G.O.Ms.No.149 was passed on 06.07.1999 granting the revision of UGC scales of pay. The Registrar of the TANUVAS in his letter dated 05.11.2007 had requested the government to issue an amendment to G.O.Ms.No.149 in order to extend the benefit of relaxation, as granted to TNAU in G.O.Ms.No.270. However, the TANUVAS has sought the relaxation exclusively to the “41 teaching staffs” and not recommended for the other “20 teaching staffs”. The TANUVAS is of the opinion that only 41 persons are eligible since they were selected on merits by the committee under CAS on par with the similarly placed persons in TNAU. This Court is not able to accept the contention of the respondent. The G.O.Ms.No.149 has stated that the initial appointment of Assistant Professors, Associate Professors and Professors should be through All India Advertisement and the selection should be made through committee, but the G.O. was issued on 06.07.1999 and has come into effect from 06.07.1999. The petitioner was recruited as Instructor/Research Assistant on 28.04.1976, then the said post was upgraded as Assistant Professor and the petitioner was promoted as Assistant Professor from 01.12.1977, then absorbed from TNAU to TANUVAS and served



W.P.(MD)No.1034 of 2016

WEB COPY

as Assistant Professor. Since the petitioner was promoted as Assistant Professor prior to G.O.Ms.No.149, then by relying on conditions of subsequent G.O.Ms.No. 149, the respondents cannot decline the benefits. Therefore, this Court is of the considered opinion that the reason to decline the benefits is erroneous.

II. The next contention of the respondent is that based on the G.O.Ms.No.149, a proposal by TANUVAS was considered by the government and has issued G.O.Ms.No.41 dated 15.03.2010 for revision of scales of pay based on 6th UGC. After issuance of the above G.O.Ms.No.41, the government agreed with the above said amendment proposal and G.O.Ms.No.274 dated 25.10.2013 was issued amending G.O.Ms.No.149. Both G.O.Ms.No.149 and G.O.Ms.No.41 are not identical since there are variations in pay structures, date of effect of the orders, terms and conditions for promotions under CA scheme and fixation of pay etc. Because of this difference the Board of TANUVAS had recommended only for the 41 employees and hence the other 20 employees were declined. On perusing the said G.O.Ms.No.149, it is passed for fixing the scale of pay based on 5th UGC pay and G.O.Ms.No.41 is passed for fixing the scale of pay based Prof.G.K.Chadha Committee report for 6th UGC pay. Since there were difference



W.P.(MD)No.1034 of 2016

WEB COPY

in revision of scale of pay the Board had not recommended. On hearing such plea this Court is of the opinion that the main thrust of the respondent is that the Board had not recommended and hence the other 20 persons were not granted. Such a plea cannot be entertained, since the Board is not the deciding authority, it is only the recommending authority. The other objection is that there is difference in pay scales in 5th pay and 6th pay. This Court is of the considered opinion that the respondents cannot deny the Career Advancement Scheme since there were difference in 5th pay revision and 6th pay revision, since pay revision happens once in 10 years. If the petitioner is entitled to CAS under 5th pay revision then the same ought to be granted. By citing 6th pay revision conditions, the respondents cannot decline the benefits of CAS under 5th pay revision.

12. It is seen that the G.O.Ms.No.149 dated 06.07.1999 was passed. Thereafter had issued an amendment through G.O.Ms.No.101 Animal Husbandry Dairying and Fisheries (AH6) Department dated 30.06.2010 and the said amendment is extracted hereunder:

ABSTRACT

Tamil Nadu Veterinary and Animal Science University – Teaching Staff – Revision of University Grants Commission – 5th scale of pay – Career Advancement Scheme – Amendment – issued.



W.P.(MD)No.1034 of 2016

WEB COPY

Animal Husbandry, Dairying and Fisheries (AH6) Department
G.O.Ms.No.101
Dated 30.06.2010
Anai 16 Thiruvalluvar Andu 2041

Read: G.O.Ms.No.149 Animal Husbandry, Dairying and Fisheries Department dated 06.07.1999

Order:

The following amendments are issued to the G.O.(MS)No.149 Animal Husbandry, Dairying and Fisheries (AH6) Department dated 06.07.1999.

Amendment

i.After the existing paragraph (iv) under CAREER ADVANCEMENT SCHEME the following paragraph shall be added as paragraph (v).

"V) The individual would become eligible for benefits due from Career Advancement Scheme promotion from the date he becomes eligible, even though selection is made at a later date".

ii.The existing paragraph (v) shall be renumbered as paragraph (vi)".

(BY ORDER OF THE GOVERNOR)

C. MUTHUKUMARASWAMY
SECRETARY TO GOVERNMENT

To

The vice chancellor

Tamil Nadu Veterinary and Animal Sciences University, Chennai-51

The Director, Local Fund Audit, Kuralagam, Chennai-108

The Accountant General, Chennai-18



W.P.(MD)No.1034 of 2016

WEB COPY

The Director, Department of Agricultural Research and Education, Ministry of Agriculture, Government of India, Krishi Bhavan, New Delhi – 110 001

13. Based on G.O.Ms.No.149 and the amendment G.O.Ms.No.101, the further amendment in G.O.Ms.No.270 Agriculture (AU) Department dated 08.10.2011 was issued granting CAS benefits to the teaching staffs of TANU. In the said G.O.Ms.No.270, it has been stated that

*"3.2. The revised Career Advancement Scheme will take effect from 01.01.1996 onwards. The promotions under Career Advancement Scheme will be done as per procedure already followed in the University and all the benefits for the individual will be given **from the date of attainment of service eligibility of the individual though selection is done at a later date**"*

Since the said G.O.Ms.No.270 has granted the benefits to the eligible candidates "from the date of attainment of service eligibility, though **selection is done at a later date**". Such a provision of "**selection is done at a later date**" is also available in G.O.Ms.No.274. The relevant provision is extracted hereunder:

"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).



W.P.(MD)No.1034 of 2016

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(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 late 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.

14. When such provision is available, the Board has come to an erroneous conclusion that the petitioner and similarly placed persons are not eligible. This interpretation is total non-application of mind. The respondents are clearly missing the amendment issued in G.O.Ms.No.101.

15. Interestingly after issuance of G.O.Ms.No.101, then only the G.O.Ms.No.270 was issued granting the benefits with a benefit rider “**selection is done at a later date**”. When the government has issued G.O.Ms.No.149 read with G.O.Ms.No.101 and has granted the benefits in G.O.Ms.No.270 to TNAU,



W.P.(MD)No.1034 of 2016

WEB COPY

then the same benefit ought to be granted to petitioner and similarly placed persons by invoking G.O.Ms.No.101 and grant benefits TANUVAS also. The G.O.Ms.No.274 is discriminatory to the extent that it has not included the names of the petitioner and similarly placed persons. More so when the G.O.Ms.No.274 grants the benefits by relaxing the condition of 8 years and by granting retrospective effect from 27.07.1998. Therefore, this Court is of the considered opinion that there is total non-application of mind both by the Board of TANUVAS and the Government. The petitioner is entitled to the post of Professor from the date of attainment of eligibility.

16. The petitioner has relied on the judgment dated 09.09.2011 in W.P. (MD)No.3573 of 2007 filed by one Dr.M.Nagoor Meeran, who is junior to the petitioner. The Learned Single Judge has allowed the writ petition and directed the respondents to place the petitioner thereunder as Associate Professor, with effect from 18.08.1997 and Professor with effect from 18.08.2005 with all attendant benefits. Against which, the respondents have preferred an appeal and the same was closed since the prayer sought for by the said Dr.M.Nagoor Meeran was already granted and the same was implemented. The petitioner is also



W.P.(MD)No.1034 of 2016

WEB COPY

seeking the same relief. The relevant portion if the judgment is extracted hereunder:

“36. The doubt, if any, as to the date of effective implementation of the revision of pay scales stood clarified, when it was made effective from 01.01.1996, and rightly adopted by the State Government, qua the Tamil Nadu Agricultural University, while revising the pay scale, and granting benefit under the Career Advancement Scheme.

37. The Government of Tamil Nadu, adopted the recommendations of UGC vide G.O.Ms.No.149 dated 06.07.1999. The only difficulty was that while in G.O.Ms.No.270 Agriculture (AU) Department dated 08.10.2011 issued by the Government of Tamil Nadu, it was stipulated as under:-

"3.2. The revised Career Advancement Scheme will take effect from 01.01.1996 onwards. The promotions under Career Advancement Scheme will be done as per procedure already followed in the University and all the benefits for the individual will be given from the date of attainment of service eligibility of the individual though selection is done at a later date".

38. This clause was not incorporated, while implementing the revised pay scale, in the case of employees of the Tamilnadu Veterinary and Animal Sciences University. Even in absence of any clarification, in view of the orders of the Government of India dated 06.11.1998, the benefits were to be granted from 01.01.1996. The petitioner is entitled to be placed as Associate Professor with effect from 18.08.1997 and Professor with effect from 18.08.2005, as prayed for.



W.P.(MD)No.1034 of 2016

WEB COPY

39. *The doubt, if any, stood clarified vide G.O.Ms.No.101 Animal Husbandry, Dairying and Fisheries (AH6) Department dated 30.06.2010 which reads as under:-*

"The following amendments are issued to the G.O.(MS)No.149 Animal Husbandry, Dairying and Fisheries (AH6) Department dated 06.07.1999. Amendment i. After the existing paragraph (iv) under CAREER ADVANCEMENT SCHEME the following paragraph shall be added as paragraph (v). "V) The individual would become eligible for benefits due from Career Advancement Scheme promotion from the date he becomes eligible, even though selection is made at a later date".

ii. The existing paragraph (v) shall be renumbered as paragraph (vi)".

40. *Therefore, the benefit under the Advancement Scheme is to be given from the date of eligibility, even if selection is made on a later date. The letter No.F.N.7(13)/2002 - EP & D of the Indian Council of Agricultural Research, New Delhi is based on wrong interpretation of the Circular, and issued in ignorance of the letter No.F.1-22/97-U.I
Government of India, Ministry of Human Resource Department, (Department of Education), New Delhi dated 06.11.1998, therefore, cannot advance the case of the respondents. It is only an administrative order, being contrary to regulations deserves to be ignored.*

41. *Once it is not disputed that the revision of pay scale effective from 01.01.1996, and furthermore, the benefit was due from the date of eligibility and not from the date of selection, the stand of the respondents in denying the benefit to the petitioner from the date of eligibility, therefore, cannot be*



W.P.(MD)No.1034 of 2016

WEB COPY

sustained. The stand of the respondents that revised pay scale / Career Advancement Scheme was to apply from 27.07.1998 also cannot be accepted.

42. Consequently, this writ petition is allowed, a writ in the nature of Mandamus is issued, directing the respondents to place the petitioner as Associate Professor with effect from 18.08.1997 and as Professor with effect from 18.08.2005 with all consequential benefits. The needful be done within two months of the receipt of certified copy of this order. No costs."

17. Therefore, this Court is of the considered opinion that the petitioner is entitled to the post of Professor from the date the petitioner attained the eligibility. The respondents shall grant the said benefits along with the monetary benefits to the petitioner. But the petitioner is not entitled to any interest for the belated payment of monetary benefits.

18. Even though, the writ petition is filed by even a single person, the Government shall consider the same to all the eligible candidates without discriminating anybody.



W.P.(MD)No.1034 of 2016

WEB COPY

19. With these observations, this Writ Petition is allowed. No Costs.

Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
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20.02.2023

To:

The Secretary,
State of Tamil Nadu,
Department of Animal Husbandry & Fisheries,
Fort Saint George,
Chennai – 600 009.



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W.P.(MD)No.1034 of 2016

S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No.1034 of 2016**

20.02.2023