



W.P.No.29454 of 2011

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 24.01.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.CHANDRASEKARAN**

W.P.No.29454 of 2011  
& M.P.No. 1 of 2011

Dr.K.Umarani

... Petitioner

Vs.

1.The State of Tamil Nadu  
rep.by the Secretary,  
Higher Education Department,  
Fort St.George, Chennai-9

2.The Commissioner for Technical Education,  
Guindy, Chennai-25.

... Respondents

**Prayer:** Writ Petition is filed under Article 226 of Constitution of India, prayed to issue Writ of Certiarified Mandamus calling for records relating to the 2<sup>nd</sup> respondent's order made in No.O.Mu.39041/B-1/2011 dated 17.09.2011 and order in No.9773/B-1/2011 dated 16.11.2011 to quash the same and consequently direct the respondents to revise and refix the pension and pensionary benefits on the basis of the AGP at Rs.10,000/- forthwith.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.S.Ravichandran  
Additional Government Pleader



W.P.No.29454 of 2011

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## **ORDER**

This Writ Petition is filed to call for records relating to the 2<sup>nd</sup> respondent's order made in No.O.Mu.39041/B-1/2011 dated 17.09.2011 and order in No.9773/B-1/2011 dated 16.11.2011 to quash the same and consequently direct the respondents to revise and refix the pension and pensionary benefits on the basis of the AGP at Rs.10,000/- forthwith.

2. The learned counsel appearing for the petitioner states that the petitioner was appointed as Special apprenticeship trainee on 10.09.1973. Thereafter, she was posted as Junior Inspector on 20.06.1974 and she was regularized from 09.02.1978. The probation was declared during 1980 and after completion of 10 years, she was upgraded as Associate Lecturer with effect from 09.02.1988.

3. The petitioner's service as Associate Lecturer was revised with effect from 1983. Thereafter, there was further upgradation as Special Temporary Lecturer, which was re-designated as Senior Lecturer with effect from 1993. Since there was an error in regularization of services, petitioner has submitted a



W.P.No.29454 of 2011

representation requesting retrospective regularization. The said request was rejected by proceedings of the Government in Letter No.6788/I-2/99-17 dated 13.09.2006. Petitioner got superannuation with effect from 31.07.2011 and was on re-employment till the academic year 2012.

4. Petitioner's next promotion from the post of Senior Lecturer is Head of Department in Instrumentation and Control Engineering at Dr.Dharmabal Government Polytechnic College for Women, Chennai. The post of Head of Department in Instrumentation and Control Engineering fell vacant during 1997. Petitioner was qualified and eligible for the post of HOD. Despite repeated representation, her representation was not considered for the post of Head of Department. Only from 09.03.2010, the petitioner's services was upgraded as Head of Department. However, the monetary benefits was extended only from 27.08.2009. Petitioner made a representation dated 06.09.2011 seeking for other benefits as per Government Orders and that of Pay Commission Implementation relating to change of AGP from Rs.9,000/ to Rs.10,000/. However, the representation was rejected on the ground that she is not entitled. In the said circumstances, this Writ Petition is filed challenging the 2<sup>nd</sup> respondent's order



W.P.No.29454 of 2011

made in No.O.Mu.39041/B-1/2011 dated 17.09.2011 and order in No.9773/B-

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1/2011 dated 16.11.2011 with a direction to the respondent to accord petitioner with the post of Head of Department with effect from 1997 and to revise and refix the pension and pensionary benefits on the basis of the AGP at Rs.10,000/- forthwith.

5. In response, the learned counsel for the respondent submitted that the petitioner made a representation requesting to give Rs.10,000/- as AGP since she has completed Ph.D. In the revised pay scheme, issued in G.O.(Ms) No.111, Higher Education (C2) Department, dated 25.05.2010. It has been given as follows:-

| <i>Sl.No</i> | <i>Name of the post</i>     | <i>Existing Scales of Pay</i> | <i>Name of the Post</i>                                        | <i>Proposed Scales of Pay</i> |
|--------------|-----------------------------|-------------------------------|----------------------------------------------------------------|-------------------------------|
| 1            | Head of Department          | 12000-420-18300               | Head of Department                                             | 37400-67000+AGP 9000          |
| 2            | Head of Department          | 12000-420-18300               | Head of Department<br>Ph.D + 3 years                           | 37400-67000+AGP 10000         |
| 3            | Upgraded Head of Department | 12000-420-18300               | Lecturer<br>(Selection Grade)<br>(More than 3 years in the pre | 37400-67000+AGP 9000          |



W.P.No.29454 of 2011

| <i>Sl.No</i> | <i>Name of the post</i>     | <i>Existing Scales of Pay</i> | <i>Name of the Post</i>                                                                                    | <i>Proposed Scales of Pay</i> |
|--------------|-----------------------------|-------------------------------|------------------------------------------------------------------------------------------------------------|-------------------------------|
|              |                             |                               | revised scale of Rs.12000-18300 as on 01.01.2006)                                                          |                               |
| 4            | Upgraded Head of Department | 12000-420-18300               | Lecturer (Selection Grade) (less than 3 years in the pre revised scale of Rs.12000-18300 as on 01.01.2006) | 15600 -39100 +AGP 8000        |

He further submitted that the petitioner was posted only as upgraded HOD and hence as per revised pay scale 2010, she is entitled only for Rs.9,000/- AGP. Only regular Head of Department with Ph.D qualification with three years experience is eligible for Rs.10,000/- AGP. Since the petitioner is not regularly promoted to the Head of Department, she cannot be sanctioned Rs.10,000/- AGP and therefore, she is not entitled for any benefit under revised scale of pay.

6. Considering the rival submission and perused the records.

7. The learned counsel for the respondent submitted a comparative service details of the petitioner and one Tmt.Johnsirani pushparaj from date of joining the college and it is extracted below:-



W.P.No.29454 of 2011

| <b>Sl.No.</b> | <b>Details of the petitioner</b>       |     | <b>Tmt.Johnsirani Pushparaj</b>                                                                                                                                     | <b>Dr.K.Umarani</b>                                                                                                                                                                   |
|---------------|----------------------------------------|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1             | Date of Joining                        |     | 29.06.1973 FN                                                                                                                                                       | 20.06.1974 FN                                                                                                                                                                         |
| 2             | Post held at the time of Joining       |     | Junior Instructor (Temporary 10 (a)(i))                                                                                                                             | Junior Instructor (Temporary 10 (a)(i))                                                                                                                                               |
| 3             | Date of Regularization and Post        |     | 09.02.1978, Instructor                                                                                                                                              | 09.02.1978, Instructor                                                                                                                                                                |
| 4             | Date of Probation declaration and Post |     | 02.03.1980, Instructor                                                                                                                                              | 16.04.1980, Instructor                                                                                                                                                                |
| 5             | Details of Up gradation                | I   | UG Associate Lecturer as on 09.02.1983 FN. (Chennai, Directorate of Technical Education's Proceeding No.44567/B2/1992, Dt.04.08.1992)                               | UG Associate Lecturer as on 09.02.1983 FN. (Chennai, Directorate of Technical Education's Proceeding No.56140/B2/1986-1, Dt.08.10.1993)                                               |
|               |                                        | II  | UG Senior Lecturer from 15.07.1993 FN (Chennai, Directorate of Technical Education's Proc.No.40795/B2/1997, dt.16.09.1997) (Scale of Pay Rs.3000-100-3500-125-5000) | Special Temporary Lecturer as on 09.02.1993 FN (Chennai, Directorate of Technical Education's Endorsement No..56140/B2/1986-2 dt.08.10.1993) (Scale of Pay Rs.3000-100-3500-125-5000) |
|               |                                        | III | Regular Senior Lecturer as on 10.10.2007 FN. (Chennai, Directorate of Technical Education's Endorsement No.45371/B1/2004-2,3 dt.10.10.2007)                         | UG Senior Lecturer pay given from 01.04.1996 FN                                                                                                                                       |
|               |                                        | IV  | Upgraded HOD as on 09.02.2001 FN                                                                                                                                    | Upgraded HOD as on 09.02.2001 FN                                                                                                                                                      |



W.P.No.29454 of 2011

| <b>Sl.No.</b> | <b>Details of the petitioner</b> | <b>Tmt.Johnsirani Pushparaj</b>                                                                      | <b>Dr.K.Umarani</b>                                                                          |
|---------------|----------------------------------|------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|
|               |                                  | (Revised) (Chennai, Directorate of Technical Education's Proceeding No.24227/B1/2013, dt 11.03.2015) | (Chennai, Directorate of Technical Education's Proceeding No.44906/B1/2009-5, dt 09.03.2010) |
| 6             | Date of Retirement               | 30.09.2008 (as Upgraded HOD)                                                                         | 31.07.2011 ( as Upgraded HOD)                                                                |

From this comparative statement, it is seen that the petitioner joined as Junior Instructor on 20.06.1974 and one Johnsirani Pushparaj joined as Junior Instructor on 29.06.1973. They were regularized on same day on 09.02.1978 as Instructor. However, petitioner's probation was declared on 16.04.1980 as Instructor and Tmt.Johnsirani Pushparaj's probation was declared on 02.03.1980 as Instructor. Both were Under Graduate Associate Lecturer with effect from 1983. Tmt.Johnsirani Pushparaj was upgraded as UG Senior Lecturer from 15.07.1993. Whereas, the petitioner was upgraded as Special Lecturer from 09.02.1993. The fact to be noted here is that both had joined in the same post with pay scale of Rs.3,200 – 100 – 3500 – 125 – 5000. Then Tmt.Johnsirani Pushparaj was functioning as Regular Senior Lecturer with effect from 10.10.2007. The details also show that the petitioner was given UG Senior Lecturer's pay from 01.04.1999,



W.P.No.29454 of 2011

then from 09.02.2001 both were functioning as Upgraded HOD. The proceedings for the petitioner to function as Upgraded HOD was issued under proceeding No.44906/B1/2009-5 dated 09.03.2010, whereas proceedings for Upgraded HOD was issued in proceeding No.24227/B1/2013 dated 11.03.2015 to Tmt.Johnsirani Pushparaj. Both have now retired, Tmt. Johnsirani Pushparaj on 30.09.2008 and the petitioner on 31.07.2011. Both were retained till the completion of academic year.

8. The learned counsel for the petitioner has now restricted the prayer since the petitioner was functioning as Upgraded HOD from 09.02.2001, she is atleast entitled for the pay benefits of Upgraded HOD. He further submits that the petitioner has all the requisite qualification for the post of Regular HOD, since she has Ph.D plus three years experience.

9. In the light of the facts extracted above, the petitioner was functioning as Upgraded HOD with effect from 09.02.2001 on the basis of the proceedings of Directorate of Technical Education's Proceeding No.44906/B1/2009-5, dated 09.03.2010). She has requisite qualification for the post of regular HOD. Hence,



W.P.No.29454 of 2011

this Court set aside the impugned proceedings of the 2<sup>nd</sup> respondent and directs the respondent to give the post of HOD with effect from 01.10.2008, after the date of retirement of Tmt.Johnsirani Pushparaj on 30.09.2008, and fix pay of the petitioner in the revised pay scale of Rs.37,400 – 67000 + AGP 10000/- and pay her all the consequential monetary and retirement benefits.

**10.** Accordingly, pension is ordered to be refixed and the pensionary benefits shall be given to the Petitioner. This exercise shall be completed within a period of three months from the date of receipt of this order. In the result, this Writ Petition is partly-allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

**24.01.2024**

Index : Yes/No

Neutral Citation : Yes/No

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**G.CHANDRASEKHARAN,J.**



W.P.No.29454 of 2011

rpl

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- 1.The Secretary,  
The State of Tamil Nadu  
Higher Education Department,  
Fort St.George, Chennai-9
- 2.The Commissioner for Technical Education,  
Guindy, Chennai-25.

W.P.No.29454 of 2011

**24.01.2024**