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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 13.12.2023

PRONOUNCED ON : 06.03.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.Nos.7135 of 2020, 10206 of 2020, 10340 of 2020, 10547 of 2020,
10590 of 2020, 11082 of 2020, 11223 of 2020, 11230 of 2020,
11509 of 2020, 12805 of 2020, 11570 of 2020, 11826 of 2020,
11840 of 2020, 11846 of 2020, 11851 of 2020, 11999 of 2020,
12171 of 2020, 12232 of 2020, 12242 of 2020, 12264 of 2020,
12270 of 2020, 12375 of 2020, 12368 of 2020, 13501 of 2020,
12408 of 2020, 12420 of 2020, 12452 of 2020, 12456 of 2020,
12544 of 2020, 12619 of 2020, 12850 of 2020, 13326 of 2020,
13338 of 2020, 13437 of 2020, 13494 of 2020, 13496 of 2020,
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14806 of 2020, 14828 of 2020, 14835 of 2020, 14837 of 2020,
11491 of 2020 and 2014 of 2021, 2788 of 2021, 3129 of 2021,
3136 of 2021, 12522 of 2021, 14888 of 2021, 14891 of 2021,
14895 of 2021, 17905 of 2021, 17912 of 2021, 21048 of 2021,
21916 of 2021, 21918 of 2021, 25136 of 2021,
25140 of 2021, 25331 of 2021

and

W.M.P.Nos.20555 of 2021, 8504 of 2020, 8507 of 2020, 12406 of 2020,
12408 of 2020, 17473 of 2021, 12569 of 2020, 12576 of 2020,
17475 of 2021, 12805 of 2020, 12865 of 2020, 12867 of 2020,
24265 of 2021, 13491 of 2020, 13686 of 2020, 13687 of 2020,
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16465 of 2021, 25123 of 2021, 14062 of 2020, 14063 of 2020,
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3564 of 2021, 13303 of 2021, 13306 of 2021, 8511 of 2022, 15757 of 2021,
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19112 of 2021, 19117 of 2021, 19121 of 2021, 19123 of 2021,
8530 of 2022, 22303 of 2021, 23117 of 2021, 23118 of 2021,
23119 of 2021, 23121 of 2021, 23124 of 2021, 23125 of 2021,
23126 of 2021, 23127 of 2021, 727 of 2022, 729 of 2022, 26510 of 2021,
26511 of 2021, 26497 of 2021, 26499 of 2021, 26501 of 2021,
26505 of 2021, 6940 of 2022, 6941 of 2022, 6938 of 2022,



26742 of 2021, 26740 of 2021, 26741 of 2021

W.P.No.7135 of 2020

S.Nagarajan

...

Petitioner

versus

- 1.State of Tamil Nadu,
Rep. by Principal Secretary to Government,
Higher Education Department,
Fort St.George, Secretariat,
Chennai - 600 009.
- 2.The Director of Technical Education,
Guindy,
Chennai - 600 025.
- 3.The Correspondent,
Arulmighu Palaniandavar Polytechnic College,
Palani - 624 601.
- 4.The Principal,
Arulmighu Palaniandavar Polytechnic College,
Palani - 624 601.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned letter issued by the 2nd respondent in Letter No.35822/C1/2018-3 dated 27.02.2020 and quash the same in so far as the non-approval of AGP 9000 in the post of Selection Grade Lecturer with effect from 01.01.2009/29.09.2009 is concerned and consequently directing the respondents to approve the pay band with AGP 9000 in the post of



Selection Grade Lecturer with effect from 01.01.2009/29.09.2009 with all consequential and other attendant benefits.

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For Petitioners : Mr.G.Sankaran
[in W.P.Nos.7135 and 11491 of 2020] Senior Counsel
for Mr.S.Neduchezhiyan

For Petitioners : Mr.GR.Mutharasu
[in W.P.Nos.10206, 10340, 10547,
10590, 12232, 12242 of 2020]

For Petitioners : Mr.P.Tamilavel
[in W.P.Nos.11082, 14204, 11999, 12544 of 2020]

For Petitioners : Mr.Rajpal Singh
[in W.P.No.11840, 12171, 12452,
12456, 12850 of 2020]

For Petitioner : Mr.L.Chandrakumar
[W.P.No.12420 of 2020]

For Petitioners : Mrs.Nalini Chidambaram,
[in W.P.Nos.11223, 11230, 11570, 11826,
11846, 11851, 12264, 12270, 12368, 12619,
11509, 12375, 12805, 13501, 12408, 13326,
13338, 13437, 13494, 13496, 14797, 14809,
14803, 14806, 14828, 14835, 14837 of 2020,
2014, 2788, 12522, 17905, 17912, 21916,
21918, 25136, 25140, 25331, 3129, 3136,
14888, 14891, 14895, 21048 of 2021]

For Respondent Nos.1 & 2 : Mr.V.Arun,
[in all W.Ps.] Additional Advocate General
Assisted by
Mr.T.Arunkumar



Additional Government Pleader

For Respondent No.2
[in W.P.No.14204 of 2020]

: Mr.B.Ravi Raja

For Respondent No.3
[in W.P.Nos.14797, 14809 of 2020,
3129 & 3136/2021]

: Mr.B.Ravi Raja

For Respondent No.3
[in W.P.No.21916 of 2021]

: Mr.K.R.Gunashekar

For Respondent No.3
[in W.P.Nos.12264, 12619 of 2020
2014 & 2788 of 2021]

: Mr.R.Bharathkumar

For Respondent No.3
[in W.P.Nos.13501, 13494 , 13437,
& 13494 of 2020]

: Mr.D.Pandarinath

For Respondent No.3
[in W.P.Nos.10206, 10340, 10547,
10590, 12232 & 12242 of 2020]

: Mr.D.Balaraman

For Respondent No.4
[in W.P.No.25331 of 2021]

: Ms.T.S.Selvarani

For Respondent No.4
[in W.P.Nos.10206, 10340, 10547,
10590 of 2020]

: Mr.K.Kalainesan
for Mr.B.Rabu Manohar

For Respondent No.5
[in W.P.Nos.12232, 25136 of 2020
25140 of 2021]

: Mrs.J.Sreevidya

COMMON ORDER

These Writ Petitions have been filed by the petitioners, who work as
Lecturers in the Government polytechnic Colleges for whom progression to



a higher grade pay had been given through Career Advancement Scheme (herein after called as CAS) but proceedings were issued subsequently to recover the same and hence these writ petitions are filed challenging the same and also to direct the respondents to sanction the CAS for those persons, who are eligible to get the same.

2. All India Council of Technical Education (AICTE) is a superior body under the Government of India to issue Regulations for conducting all Technical Courses including Government and aided Polytechnic Colleges. AICTE issued Regulations under AICTE Act, 1987 on 05.03.2010 by introducing Academic Grade Pay (AGP) with pay band to all teaching staffs for CAS, subject to other conditions of eligibility being satisfied for upward movement of AGP during their career.

3. Accordingly, the State Government has issued Government Order in G.O.(Ms).No.111, Higher Education (C2) Department, dated 25.05.2010 [G.O.(Ms).No.111, dated 25.05.2010] in compliance of AICTE Regulations by introducing AGP for CAS which was given with notional effect from 01.01.2006 and monetary benefits from 01.01.2007, by



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complying with the condition No.xvi of *Appendix-I of G.O.(Ms).No.111, dated 25.05.2010*. The Principals of Colleges have implemented AGP and sanctioned the same for all those who are qualified.

4. Having made so many clarifications for implementing AICTE Regulations dated 05.03.2010 during pendency of G.O.(Ms).No.111, dated 25.05.2010, final clarification was issued by AICTE on 08.11.2012. Consequent to the clarification dated 08.11.2012, the State has issued the Government Order in G.O.(Ms).No.58, Higher Education (C2) Department, dated 21.03.2018 [G.O.(Ms).No.58, dated 21.03.2018]. The issue of AGP was settled as per *Clauses (e), (f), (g) and (h)* of the above Government Order, subject to the satisfaction of the other conditions.

5. As per the contention of the Government, many of the teaching staffs without fulfilling the eligible requirements had received excess pay upto AGP 10000. The Screening-cum-Evaluation Committee for CAS under G.O.(Ms).No.111, dated 25.05.2010 was constituted by the 2nd respondent during the year 2019.



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6. The applications were made under CAS before the Screening-cum-Evaluation Committee and the Committee verified the records and none of the staffs were recommended for monetary benefits. Since the findings of the Screening-cum-Evaluation Committee for CAS were in violation of *Clause 3(e) of G.O.(Ms).No.58, dated 21.03.2018*, the 2nd respondent in compliance of Clause 3(e) of G.O.(Ms).No.58, dated 21.03.2018 ratified up to AGP 8000 with monetary benefits from 01.01.2006 to 07.11.2012 to all 807 persons.

7. According to the Government, they were not found to be eligible to get AGP 8000 or AGP 9000, but the Principals of the said Colleges have sanctioned the same. Hence, the recovery orders have been issued stating that the excess salary made in the form of CAS for persons, who are not eligible for the same. So these Writ Petitions have been filed, challenging the above recovery orders and also seeking a writ of mandamus to direct the respondents to sanction CAS for those persons, who claim to be eligible but for whom it was not granted.



Arguments in respect of the petitioners, who claim CAS for Selection Grade Lecturers with upgradation of Head of Department with AGP 9000:-

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8. Mr.G.Sankaran, learned Senior Counsel for the petitioners [W.P.Nos.7135 and 11491 of 2020] submitted that the Department of Technical Education has misunderstood the criteria applicability of G.O.(Ms).No.111, dated 25.05.2010. Some of the petitioners, who do not possess Master's degree in Engineering as stipulated by AICTE Regulations dated 05.03.2010 and subsequent to the issuance of G.O.(Ms).No.111, dated 25.05.2010, were wrongly found to be not eligible for AGP. As per G.O.(Ms.)No.1081, Education (J-1) Department dated 19.08.1989 [G.O.(Ms.)No.1081 dated 19.08.1989], the qualification for the post of Head of Department (later designated as Selection Grade Lecturer), is either M.E. or B.E. and 10 years of service. In the said Government Order, it is stated that as against the upgrading scheme, the Lecturer with 10 years of service having the qualification required for a Head of Department will be upgraded as a Head of Department.

8.1. In G.O.(Ms.)No.126, Higher Education (C2) Department, dated 28.03.1999, the revision of scale of pay for the teaching staffs was done with



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effect from 01.01.1996. So far as the CAS is concerned, it was stated that the orders would be issued separately. Consequently, G.O.(Ms.)No.563, Higher Education (C2) Department, dated 31.12.2004 was issued for implementing certain guidelines and recommendations of AICTE. In the said Government Order, it is stated that G.O.(Ms.)No.1081, dated 19.08.1989 will continue to work without any break, till such time the question of general pay revision is taken for examination by a Committee like Pay Commission. Hence, G.O.(Ms.)No.1081, dated 19.08.1989 has to be followed for the purpose of CAS till the next general pay revision is taken up by the pay commission.

8.2. As per the Circular issued by the Department of Technical Education dated 20.07.2009, even for all those who joined service before 19.08.1989, the educational qualification followed for Government Polytechnic Colleges shall be followed for upgradation. This Circular has to be followed till the *ad hoc* rules are amended.

8.3. The AICTE Notification dated 05.03.2010 came into force from the date of its publication. Following the above Notification dated



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05.03.2010, the Government issued G.O.(Ms).No.111, dated 25.05.2010 to revise the scale of pay to the **Teachers** in the Government and the Government aided Polytechnic Colleges and the revised scale of pay will be given effect from 01.01.2006 notionally and monetary benefit from 01.01.2007.

8.4. As per G.O.(Ms).No.111, dated 25.05.2010, all those who reached AGP 8000 as on 01.01.2006 for the post of Selection Grade Lecturer is eligible to move to AGP 9000 (as on 01.01.2009) on completing 3 years of teaching with AGP 8000. The qualification required in *Appendix-V* of G.O.(Ms).No.111, dated 25.05.2010, for movement to AGP 9000 has to be given with prospective effect from 25.05.2010 and it is not applicable to all those who had not completed 3 years with effect from 01.01.2006 as on which date they got AGP 8000.

8.5. According to AICTE Notification dated 08.11.2012 and another AICTE Notification dated 04.01.2016, it has been clarified that the qualifications prescribed in G.O.(Ms).No.111, dated 25.05.2010 shall be



applied for the purpose of CAS promotion and direct recruitment, which shall come into effect from the date of publication in Official Gazette.

8.6. As per G.O.(Ms.)No.36, Higher Education (B1) Department, dated 13.02.2018 [G.O.(Ms.)No.36, dated 13.02.2018], the Government amended *ad hoc* rules in respect of qualifications prescribed for the post of Head of Department in the teaching posts in Polytechnic Colleges is a Bachelor's and Master's degree in the appropriate branch of Engineering. Hence, M.E. is mandatory as per *ad hoc* rules as amended *vide* G.O.(Ms.)No.36, dated 13.02.2018 which came into force w.e.f. **25.05.2010**.

8.7. The clarification issued by the AICTE Notification dated 04.01.2016, clarifies that the faculty who achieved CAS as specified in G.O.(Ms.)No.111, dated 25.05.2010 before the issuance of AICTE Regulations dated 08.11.2012, would be given the AGP progression and monetary benefits from the date of attaining eligibility. Hence the impugned order of Department of Technical Education / 2nd respondent dated 27.02.2020 refusing AGP 9000 by alleging that the petitioners in the above



said cases do not fulfill the requirements of AICTE Regulations 2016, is not correct.

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W.P.Nos.11223, 11230, 11570, 11826, 11846, 11851, 12264, 12270, 12368, 12619, 11509, 12375, 12805, 13501, 12408, 13326, 13338, 13437, 13494, 13496, 14797, 14809, 14803, 14806, 14828, 14835, 14837 of 2020, and 2014, 2788, 12522, 17905, 17912, 21916, 21918, 25136, 25140, 25331, 3129, 3136, 14888, 14891, 14895, 21048 of 2021

9. Mrs.Nalini Chidambaram, learned Senior Counsel for the petitioners submitted that the impugned orders passed by the Commissioner denying AGP 9000 to the petitioners and an order of recovery of alleged excess salary is against the principles of natural justice. No show cause notice was issued before recovery. The petitioners had retired many years ago and they are drawing pension based on AGP 9000. As per G.O.(Ms.)No.286, Finance (Pension Department) dated 28.08.2018 recoveries are impermissible from the retired employees except in cases of fraud.

9.1. The petitioners were all initially appointed as Instructors / Lecturers in Government Aided Polytechnic Colleges by virtue of their qualifications in Bachelor's degree or Master's degree in Engineering. G.O.(Ms.)No.1081, dated 19.08.1989 was issued to implement the revised



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scale of pay to the Teachers in Polytechnic Colleges. As per the above Government Order, it is sufficient if a Teacher has the qualification of either B.E. or M.E. with 10 years of service as Lecturer for promotion as Head of Department.

9.2. The petitioners had undergone the training as stipulated by AICTE Regulations, dated 08.11.2012. The petitioners reached AGP 9000 even before 08.11.2012. Hence, it is not appropriate to impose the condition with retrospective effect. The AICTE issued public notice dated 05.08.2020 for faculty members and employees by extending the date for completing orientation / refresher courses for promotion under CAS. The AICTE Regulations dated 08.11.2012 specifically states that the Regulations shall come into force with effect from the date of publication in the Official Gazette. Hence AICTE Regulations, 2010 alone is applicable to the case of the petitioners.

9.3. Subsequently, the Government Order has been issued in G.O.(Ms.)No.5, Higher Education (H1) Department, dated 11.01.2021 relating to adoption of UGC Regulations about minimum qualifications for



Teachers in Universities under the control of Higher Education Department.

In the said Government Order, in *clause (viii)* it is stated that “***requirement for Orientation course and Refresher Course for promotions due under the CAS shall not be mandatory upto 31.12.2018 for Universities under the control of Higher Education Department***”. Exempting Teachers in Universities under the control of Higher Education Department from Orientation and Refresher Course for promotions, but insisting the same for Teachers in Government Aided Polytechnic is highly discriminatory and it is in violation of Article 14 of the Constitution of India.

9.4. As per *Clauses (xi) and (xii) (Annexure-I) of G.O.(Ms).No.111, dated 25.05.2010*, Incumbent Lecturers (Selection Grade), who had not completed 3 years in the pay scale of Rs.12000-18300 on 01.01.2006 shall be placed at the appropriate stage in the pay band of Rs.15600-39100 with AGP 8000 till they complete 3 years of service in the Grade of Lecturer (Selection Grade) and thereafter, shall be placed in the additional higher pay band of Rs.37400-67000. Some of the petitioners who had completed 10 years of service as Senior Lecturers had fixed the pay scale of Rs.12000 in the pre-revised scale and consequently being Incumbent Lecturers (Selection



Grade) were placed with AGP 9000 only after completing 3 years and they became eligible for AGP 9000 even before the issuance of G.O.(Ms).No.111, dated 25.05.2010.

9.5. The Principals of Polytechnic Colleges applied the provisions of G.O.(Ms).No.111, dated 25.05.2010 and granted AGP on satisfying the conditions in *Annexure-I* of G.O.(Ms).No.111, dated 25.05.2010. There is no Government Order which states that the Commissioner has jurisdiction to grant AGP 9000. Based on the progression to AGP 9000, the pension being received by the retired Principals after the ratification is done by the Department of Technical Education. Hence subsequent recovery from the petitioners cannot be made.

9.6. After retirement of some petitioners, Screening-cum-Evaluation Committee was constituted. The petitioners appeared before the Screening-cum-Evaluation Committee constituted under G.O.(Ms).No.58, dated 21.03.2018 and produced all the documents. The nominee of the Commissioner was also a member in the Screening-cum-Evaluation Committee. Copies of the Screening Committee's report have been



furnished. As per the report, the Screening-cum-Evaluation Committee has recommended AGP 9000 for 13 petitioners and valid reasons have not been furnished to others for not giving recommendations.

9.7. Even according to *Clause 3(e) and (f) of G.O.(Ms).No.58, dated 21.03.2018*, a faculty who has already achieved the CAS norms as specified in *G.O.(Ms).No.111, dated 25.05.2010*, before the issuance of AICTE Regulations dated 08.11.2012, will be given with AGP and monetary benefits from the date of attaining eligibility.

9.8. *G.O.(Ms).No.111, dated 25.05.2010* also states that, the norms as per the AICTE Regulations shall become applicable for CAS. Since AICTE Regulations were issued on 08.11.2012, the faculty should fulfill the other conditions only from that date onwards.

10. After adopting the arguments of Mr.G.Sankaran and Mrs.Nalini Chidambaram, learned Senior Counsels, Mr.GR.Mutharasu, learned counsel for the petitioners [W.P.Nos.10206, 10340, 10547, 10590, 12232 and 12242 of 2020] submitted that, the petitioners for whom he appears were qualified



to get AGP Rs.9000 on 01.01.2009 itself. Despite the same, the respondents have sanctioned AGP 9000 w.e.f. 16.06.2011 in some cases.

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10.1. As per the AICTE Notification dated 04.01.2016, it is clarified that the period specified in the AICTE Regulations, 2010 for upward movement of Lecturer from AGP 7000 to AGP 8000 shall be counted from the date of placement of Lecturer in the corresponding pre-revised pay scale. Similarly, in Engineering Colleges where AICTE pay scale is implemented, the pay is fixed in accordance with the above clarification and hence the AGP 9000 has to be implemented w.e.f. 01.01.2009. But the respondents did not take into consideration of the petitioners' representation. Hence, he filed Writ Petitions in W.P.Nos.30768 to 30773 of 2012 seeking direction to effect AGP 9000 w.e.f. 01.01.2009 and pay the arrears.

10.2. During the pendency of the Writ Petition, it was stated by the respondents that the petitioner has not complied the required educational qualification and hence, he is not entitled to get the pay band with AGP 9000 and subsequently, the Writ Petition was disposed. Thereafter, the Department of Technical Education has passed the impugned order and



revised the scale of pay without any legal basis and issued a recovery order.

The order has been passed in a mechanical manner without any clarification given by the AICTE Notification in the years 2010, 2012 and 2016 and the Government Orders in G.O.(Ms).No.111, dated 25.05.2010 and G.O.(Ms).No.58, dated 21.03.2018.

10.3. The educational qualification cannot be fixed on a retrospective basis at the whims of the respondents. On 28.01.2019, the Screening-cum-Evaluation Committee had approved and recommended the petitioners' names and stated that they are fully qualified and entitled to get AGP 9000 w.e.f. 01.01.2009. Hence, the petitioners were eligible for AGP 9000 even before the issuance of G.O.(Ms).No.111, dated 25.05.2010 and they had retired and they were receiving pension. Hence the impugned proceedings passed by the Commissioner by denying AGP 9000 to the petitioners and ordering recovery should be set aside.

10.4. In view of the Regulations issued by ACITE under AICTE Act, 1987 dated 05.03.2010, the AGP was introduced with pay band for all teaching staffs under CAS. Accordingly, the State Government has issued



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Government Order in G.O.(Ms).No.111, dated 25.05.2010 in compliance of AICTE Regulations by introducing AGP under CAS with effect from 01.01.2006 notionally and given monetary benefit from 01.01.2007.

11. Mr.V.Arun, learned Additional Advocate General appearing for the respondents 1 and 2 submitted that the petitioners are the teaching staffs of the Government Polytechnic Colleges. The Government has revised the scale of pay and allowances of teachers, who are working in Technical Universities and in Government aided Engineering Colleges based upon the recommendations of AICTE Regulations. After considering the above factors, AICTE issued Notification dated 05.03.2010 for revising the scale of pay, allowances, etc., to the teachers of Polytechnic Colleges governed by AICTE. After having examined the above notifications, the Government of Tamil Nadu has passed the orders in which the revised scale of pay for Teachers under CAS and its equivalent positions have also been notified.

12. It is further submitted by Mr.V.Arun, learned Additional Advocate General for the respondents 1 and 2 that the petitioners herein are not qualified to get the revised scale of pay under CAS for Teachers and equivalent positions. Since they do not come within the eligibility criteria as



contemplated in *Appendix-I* of G.O.(Ms).No.111, dated 25.05.2010, they were not provided with AGP.

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13. The date of effect of the above Government Order is from 01.01.2006 in respect of notional effect and from 01.01.2007 in respect of monetary benefit. *Appendix-I* of G.O.(Ms).No.111, dated 25.05.2010 stipulates the conditions for effecting revision of pay scales for CAS. Subsequently, a letter has been addressed by the 2nd respondent to all Government aided Polytechnic colleges by stating that the order for upgradation and AGP is being issued at the level of the Commissioner. Despite that the Principals of respective Colleges had usurped the power of the Commissioner and issued orders for upgradation and AGP to the petitioners. The Principals of the petitioners' College have recommended upgradation and AGP. However the petitioners were required to appear before the Screening-cum-Evaluation Committee. The Committee denied AGP and rejected it by stating that the authority lies only with the Commissioner and the Principals cannot make such recommendation.

14. However, Mr.V.Arun, learned Additional Advocate General for the respondents 1 and 2 submitted that out of 807 cases appeared before the



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Screening-cum-Evaluation Committee, 667 cases have been approved as they have fulfilled all terms and conditions. During the next phase also, out of 140 cases appeared before the Screening-cum-Evaluation Committee almost 80 to 90 cases have been approved. Only those who did not get through the Screening-cum-Evaluation Committee have filed these Writ Petitions for clarifying certain conditions pertaining to CAS.

15. For the clarification sought before the AICTE by the Government with respect of the condition No.xi (*Appendix-I*) of G.O.(Ms).No.111, dated 25.05.2010, the following clarification has been given in the AICTE Notification dated 04.01.2016:-

45	<i>Clarification invited regarding counting of service period rendered in pre-revised Pay Scale (Rs.10000-15200) as a Lecturer (Senior Scale) prior to 1-1-2006 for the upward movement of Lecturer from AGP of Rs.7000 to AGP of Rs.8000 in Para a (ix) of Lecturer in Polytechnic in the AICTE Regulations, 2010.</i>	<i>The period specified in the AICTE Regulations, 2010 for upward movement of Lecturer from AGP of Rs.7000 to AGP of Rs.8000 shall be counted from the date of placement of Lecturer in the corresponding pre-revised pay scale.</i>
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16. The Government has issued G.O.(Ms).No.58, dated 21.03.2018 after getting all clarification for implementation of benefits conferred under G.O.(Ms).No.111, dated 25.05.2010. The impugned order dated 27.02.2020



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has been issued only after taking into consideration of the earlier Government Order in G.O.(Ms).No.111, dated 25.05.2010 and the clarification Notification issued by AICTE dated 04.01.2016 and the comprehensive Government Orders issued later in G.O.(Ms).No.58, dated 21.03.2018.

17. Since the impugned order has been issued only in compliance of the conditions stipulated in various Government Orders and the petitioners did not qualify to get the benefit as found in the said Government Orders, their cases were not considered and all those who had fulfilled the conditions have been granted with due benefits. However, some of the Lecturers to whom the respective Principals have sanctioned the AGP without following the conditions and by usurping the powers of the Commissioner, have now filed these Writ Petitions by stating that they are also qualified on par with others for whom the Principal himself has sanctioned the AGP.

18. For the convenient discussions in respect of the claims made by the petitioners about their entitlement for AGP under CAS and as per



G.O.(Ms).No.111, dated 25.05.2010, the key points can be highlighted as below:-

- (i) In respect of denying AGP by giving effect to the academic qualification with retrospective effect.*
- (ii) with regard to the date of implementation of the other requirements like completing the refresher programmes, paper publication etc. for allowing AGP.*
- (iii) the discrimination between the teachers in University under the control of Higher Education Department and the teachers in Government aided Polytechnic Colleges.*
- (iv) Impact of AICTE notifications during the year 2010, 2012 and 2016 and the Government Orders in G.O.(Ms).No.111, Higher Education (C2) Department, dated 25.05.2010 and G.O.(Ms).No.58, Higher Education (C2) Department, dated 21.03.2018.*

19. While revising the scale of pay to the teaching staffs of the Polytechnic Colleges, some improvements in the service conditions were made. The designation of '**Teachers**' were re-designated as '**Lecturers**', '**Selection Grade Lecturers**', '**Head of Department**'. The faculty norms were



also revised by prescribing the educational qualifications for a Head of Department. So far as the educational qualifications for a Head of Department at the Colleges of Engineering / Technology is concerned, the following norms were prescribed:-

Engineering / Technology	Bachelor's and Master's degree of appropriate branch in Engineering / Technology with First Class or <u>equivalent either Bachelor's or Master's level</u>	Minimum of 10 years relevant experience in teaching / research / industry
	OR Bachelor's degree and Master's degree of appropriate branch in Engineering / Technology with First Class or equivalent either Bachelor's or Master's level and Ph.D. or equivalent in appropriate discipline in Engineering / Technology	Minimum of 5 years relevant experience in teaching / research / industry

20. For the purpose of Lecturer / Workshop Superintendent, the educational qualification would be Bachelor's degree in Engineering / Technology in relevant branch with First Class or equivalent. And for the candidates having Master's degree in Engineering / Technology with First Class or equivalent either Bachelor's or Master's level is required.

21. In view of the above qualification prescribed in G.O.(Ms).No.111, dated 25.05.2010, some of the claims made for CAS and



for upgradation of *Selection Grade Lecturers* for a '**Head of Department**'

were denied by stating that the concerned '**Teacher**' does not possess any other higher degree than the Bachelor's degree in Engineering.

22. Attention of this Court was drawn to G.O.(Ms.)No.1081, dated 19.08.1989. The said Government Order was issued to revise the pay scale of '**Teachers**' in Polytechnics and Special Diploma Institutions in Tamil Nadu. As per the above Government Order, the minimum qualification for appointment for the post of Associate Lecturer will be First Class Bachelor's degree in the relevant discipline. In order to become a Lecturer, the Associate Lecturer should have completed 10 years of service and he should possess a First Class Bachelor's Degree in Engineering.

23. A Lecturer should complete 10 years of service in that level and shall possess either a Master's degree or Bachelor's degree in Engineering for promotion as '**Head of the Department**'. If he holds a Master's degree in Engineering and 5 years of service as '**Head of the Department**', it is sufficient to become '**Principal**' of Polytechnics or Special Diploma Institutions. If a person with Master's degree is not available, Bachelor's



degree holder who has the same experience as '**Head of Department**' can also be considered for the post of '**Principal**'. So those persons who already qualified to become '**Head of Department**' as per the above qualification before the issuance of G.O.(Ms).No.111, dated 25.05.2010 cannot be deprived of their promotion by stating that they do not have the required educational qualification.

24. As per the faculty norms in *Appendix-V* of G.O.(Ms).No.111, dated 25.05.2010, it is prescribed that Bachelor's and Master's degree of appropriate branch in Engineering for the post of '**Head of Department**' or '**Principal**' are not applicable with retrospective effect. Hence for all those who have qualified to become '**Head of Department**' before the issuance of G.O.(Ms).No.111, dated 25.05.2010 cannot be denied promotion by stating that they did not have the required qualification of Master's degree.

25. In fact, AICTE has issued Regulations on 08.11.2012 by clarifying that these conditions are applicable only from the date on which the Regulations are issued. Since Regulations, 2012 has been given only on 08.11.2012, the respondents cannot make any retrospective effect to



G.O.(Ms).No.111, dated 25.05.2010 and thereby deny the petitioners' promotion or other monetary entitlement.

26. Hence the submissions of Mr.V.Arun, learned Additional Advocate General for the respondents 1 and 2 that the educational qualifications prescribed under G.O.(Ms).No.111, dated 25.05.2010 would come into effect from the date of issuance of the said Government Order or with any retrospective effect cannot be accepted.

27. Despite the Government Order issued in G.O.(Ms).No.111, dated 25.05.2010 prescribing revised faculty norms for CAS, the Regulations in this regard were framed and notified only on 08.11.2012. In the Regulations, the cut-off date is prescribed as 05.03.2010 and it is so stated under *Regulations 1.3, 2.1 and 2.2*. The relevant part of the said Regulations is extracted as below:-

1.1.	These Regulations may be called the All India Council for Technical Education (Career Advancement Scheme (CAS) for the Teachers and other Academic Staff in Technical Institutions) (Diploma) Regulations, 2012.
1.2.	They shall apply to all technical institutions approved by the AICTE imparting technical education and such other courses/Programs and areas as notified by the AICTE from time to time.
1.3.	<i>They shall come into force with effect from the date of their publication in the Official Gazette.</i> <i>Provided that in the event, any candidate becomes eligible for promotion under Career Advancement Scheme in terms of these Regulations on or after 5th</i>



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	<i>March, 2010, the promotion of such a candidate shall be governed by the provisions of these Regulations.</i>
2.1.	A teacher who wishes to be considered for promotion under CAS may submit in writing to the State Government / College, within three months in advance of the due date, that he / she fulfils all qualifications under CAS and submit to the State Government / College the Performance Based Appraisal System (PBAS) in a proforma as evolved by the concerned State Government / College duly supported by all credentials as per the Academic Performance Indicator (API) guidelines (Appendix 1) set out in these Regulations.
2.2.	In order to avoid delays in holding Selection Committee meetings in various positions under CAS, the State Government / College should immediately initiate the process of screening / selection, and shall complete the process within six months from the date of application. <i>Further, in order to avoid any hardships, candidates who fulfill all other criteria mentioned in these Regulations, as on 05th March, 2010 and till the date on which these Regulations are notified, can be considered for promotion from the date, on or after 5th March, 2010, on which they fulfill the eligibility conditions.</i>

28. In any case, the educational qualifications prescribed under G.O.(Ms).No.111, dated 25.05.2010 for CAS cannot be taken into effect on any date prior to 05.03.2010. So, for all those who have got the eligibility criteria as per G.O.(Ms.)No.1081, dated 19.08.1989 and prior to crucial date of 05.03.2010 would be governed by the educational qualification prescribed for AGP under G.O.(Ms.)No.1081, dated 19.08.1989 and AICTE Regulations, dated 05.03.2010.

29. In fact, in the AICTE Regulations, 2012 the crucial date is fixed as 05.03.2010. It is obviously because of the reason that all those who became eligible as per the earlier G.O.(Ms.)No.1081, dated 19.08.1989 are covered under the AICTE Regulations, 2010 issued on 05.03.2010. So there



need not be any confusion about the applicability of the Regulations dated 05.03.2010 for all those who had acquired the eligibility criteria under G.O.(Ms.)No.1081, dated 19.08.1989.

30. Much emphasis was made by the learned Additional General Mr.V.Arun that as per Regulations 1.3 of AICTE Regulations, 2012 will come into effect from the date of its publication i.e. 08.11.2012 and hence, the applicability of the earlier G.O.(Ms.)No.1081, dated 19.08.1989 will be extended to 08.11.2012. But such interpretation, in my view is not correct in view of the proviso attached to *Regulations 1.3 of Regulations, 2012* in which it has been clearly stated that the Regulations, 2012 will be applicable for all those who have become eligible for promotion under CAS on or after 05.03.2010 (on which date the earlier Regulations, 2010 has been issued). So the outer limit for the applicability of G.O.(Ms.)No.1081, dated 19.08.1989 in respect of the educational qualifications prescribed for promotion is **04.03.2010**.

31. In view of the above discussions, it is needless to state that the eligibility criteria contemplated under G.O.(Ms.)No.111, dated 25.05.2010 is



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applicable for those persons who attained the qualification on or from 05.03.2010 and not any time earlier. In fact, G.O.(Ms.)No.563, dated 31.12.2004 itself it has been made clear that the existing CAS as ordered in G.O.(Ms.)No.1081, dated 19.08.1989 would continue without any break till such time the general pay revision is taken up by the pay commission.

32. The next Government Order revising the qualification criteria has been issued only in the year 2010 *vide* G.O.(Ms.)No.111, Higher Education (C2) Department, dated 25.05.2010. Hence, G.O.(Ms.)No.111, dated 25.05.2010 would prescribe certain eligibility criteria apart from the educational qualifications for getting AGP at every level. So the petitioners who have filed these Writ Petitions have to check whether their eligibility to get CAS as per the earlier G.O.(Ms.)No.1081, dated 19.08.1989 before the cut-off date i.e. 05.03.2010.

33. In most of the cases, the petitioners who have retired from service are said to have attained their eligibility to move to AGP 9000 as on 01.01.2009. Or in other words, the petitioners, who reached AGP in the post of Selection Grade Lecturer as on 01.01.2006 in the AGP 8000 is eligible to



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move to AGP 9000 on completing 3 years of service from 01.01.2006. So their eligibility to move AGP 9000 will be on and from **01.01.2009**. Obviously, the eligibility criteria contemplated under G.O.(Ms).No.111, dated 25.05.2010 r/w Regulations, 2012 cannot be made applicable to their cases.

34. Invoking G.O.(Ms).No.111, dated 25.05.2010 before the special date i.e. *05.03.2010* would be like giving retrospective effect to the Government order, which is not permissible. Hence the said Government Order can come into effect only from the date of its issuance. However, as per the clarification issued by AICTE Regulations dated 04.01.2016, it is clarified that the upward movement of **Lecturer** from AGP 7000 to AGP 8000 shall be counted from the date of placement of Lecturer in the corresponding pre-revised pay scale.

35. The above scale is applicable to the Selection Grade Lecturer. So a different understanding cannot be made for those who move from AGP 8000 to AGP 9000 after completing 3 years in the post of Selection Grade Lecturer.



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36. So any one, who had attained AGP 9000 or any other CAS prior to G.O.(Ms).No.111, dated 25.05.2010, as per the earlier G.O.(Ms.)No.1081, dated 19.08.1989 will be regulated by AICTE Regulations, 2010 as given in the AICTE Notification, 2016.

37. The position has been made much clear after the Government Order issued in G.O.(Ms).No.58 dated 21.03.2018 by stating the following conditions :-

“(e) The faculty who have already achieved the Career Advancement Scheme norms as specified in G.O.(Ms)No.111, Higher Education (C2) Department, dated 25.05.2010, before the issue of AICTE Regulations on 08.11.2012, be given the Academic Grade Pay progression and monetary benefits from the date of attaining eligibility, since that Government Order has already been implemented and given effect to.

(f) G.O.(Ms)No.111, Higher Education (C2) Department, dated 25.05.2010, also states that norms as per AICTE Regulations shall become applicable for Career Advancement Scheme.

Since, AICTE Regulations were issued on 08.11.2012, from this date onwards, faculty should fulfill Training and Publications norms as specified in the said Regulations.”



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38. A combined reading of the above *clauses* would show that some relaxation has been given in respect of the fulfillment of Training and Publications norms as specified in the AICTE Regulations, dated 08.11.2012. Since G.O.(Ms).No.111, dated 25.05.2010 has already been come into effect on 25.05.2010, all those who have already achieved the CAS norms as specified in the said Government Order, are allowed to get AGP and monetary benefits from the date of their attaining eligibility as stated in the above Government Order.

39. This is irrespective of the fact whether the Training and Publications norms were complied or not. Since the Regulations itself was given only on 08.11.2012, the eligible persons can fulfill the training requirement and publication even subsequent to 21.03.2018. To make it more clear, so far as the Training and Publication norms are concerned, that can be complied on and from 21.03.2018 on which date the G.O.(Ms).No.58, Higher Education (C2) Department, dated 21.03.2018 was issued.



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40. For those persons, who have already undergone Training and complied the Publication norms along with having the prescribed educational qualifications as on 25.05.2010 will not find any difficulties because they will be directly entitled to CAS in accordance with their qualifications. But the benefit of issuance of G.O.(Ms).No.58, dated 21.03.2018 is to cover the other persons who would have completed the qualifying years of service with the prescribed educational qualifications, but who have not undergone training and complied the publication norms. The above said Government Order would also bring that category under its fold for immediately enjoying the CAS.

41. However the above persons enjoying the CAS shall fulfill the Training and Publication requirement atleast as on 21.03.2018. It is reiterated and re-emphasised that the whole exercise done in pursuant to the issuance of G.O.(Ms).No.111, dated 25.05.2010 would not in any way affect all those who had attained CAS as per the old G.O.(Ms.)No.1081, dated 19.08.1989 as on **24.05.2010**. Because they will be coming under the AICTE Regulations, 2010 r/w G.O.(Ms.)No.1081, dated 19.08.1989 and not under G.O.(Ms).No.111, dated 25.05.2010 r/w AICTE Regulations 2012,



2016, and G.O.(Ms).No.58, Higher Education (C2) Department, dated 21.03.2018.

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42. So on the background of the above discussions, the following conclusions are arrived:-

- i. G.O.(Ms).No.111, dated 25.05.2010 is applicable in respect of CAS, only for those persons who had attained the eligibility criteria on and from 25.05.2010 and not any time before and no retrospective effect be given to the above said Government Order.*
- ii. Even though the AICTE Regulations, 2012 states about an earlier date i.e. 05.03.2010, its applicability can be taken into effect only from the date of the Government Order and not from 05.03.2010.*
- iii. Even if the Training and Publication norms as prescribed under G.O.(Ms).No.111, dated 25.05.2010 are not complied for those who attained the eligibility on and from 25.05.2010, they will also be eligible to get CAS, if they are otherwise qualified as per G.O.(Ms).No.111, dated 25.05.2010. This has been clarified in the subsequent G.O.(Ms).No.58, dated 21.03.2018.*
- iv. For those persons, who have attained eligibility criteria before 25.05.2010 for getting CAS will only be governed under Regulations,*



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2010 r/w G.O.(Ms.)No.1081, dated 19.08.1989 and not G.O.(Ms.)No.111, dated 25.05.2010.

43. The comparative statements in respect of each petitioner had been produced and the efforts taken in this regard by Mr.V.Arun, learned Additional Advocate General for the respondents 1 and 2 is appreciated. But the implementation of the CAS as per the above conclusions and issuing fresh orders by revisiting the orders under challenge after giving notice to the petitioners will be in the hands of the respondents. Hence the impugned orders are set aside and the respondents are directed to give notice to the petitioners within a period of two (2) weeks from the date of receipt of the order, in order to enable them to submit their individual representations within a period of four (4) weeks and to consider the same with or without forming a selection committee and issue fresh orders in terms of the above conclusions within a period of twelve (12) weeks from the date of receiving the individual representations. Had there been any recovery of amount already made in pursuant to the impugned orders, the same shall be refunded within a period of two (2) weeks.



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44. Since the Selection Committee is not contemplated in the earlier Government Orders or Regulations for sanctioning the CAS for those persons who do not fall under the operation of G.O.(Ms).No.111, dated 25.05.2010, the heads of the respective institutions themselves can sanction and pass orders.

With the above observations, these Writ Petitions are *disposed*. No costs. Consequently, connected Miscellaneous Petitions are closed.

06.03.2024

Speaking order
Index : Yes
Neutral Citation : Yes

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To

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1. Principal Secretary to Government,
State of Tamil Nadu,
Higher Education Department,
Fort St.George, Secretariat,
Chennai - 600 009.
2. The Director of Technical Education,
Guindy,
Chennai - 600 025.



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W.P.No.7135 of 2020 etc. B



R.N.MANJULA, J.

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Pre-Delivery Common Order made in
W.P.Nos.7135 of 2020, 10206 of 2020, 10340 of 2020,
10547 of 2020, 10590 of 2020, 11082 of 2020, 11223 of 2020,
11230 of 2020,11509 of 2020, 12805 of 2020, 11570 of 2020,
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06.03.2024