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W.P.Nos.10836 of 2020 & batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. Nos.10836, 10839, 10841, 10845, 10880, 10886, 10889, 10895,
10899 of 2020 and 6650 of 2021

and

W.M.P.Nos.7205, 7211, 4032, 4033, 4036, 4037, 4038, 4040, 4030 of
2021 & 13166, 13169, 13203, 13205, 13211, 13212, 13214, 13217, 13225,
13226, 13159, 13156, 13155, 13160, 13162, 13164, 13230 of 2020 &
2980, 3254 of 2022

W.P.No.10836/2020

C.Manoharan

...

Petitioner

/vs/

1. The State of Tamil Nadu,
Rep. by its Secretary to Government
Higher Education (C2) Department,
Secretariat, Fort St. George,
Chennai – 600 009.
2. The Director of Technical Education,
Directorate of Technical Education,
Guidy, Chennai – 600 025.
3. The Commissioner of Technical Education,
Guindy, Chennai – 600 025.



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4. The Principal,
PSG College of Technology,
Peelamedu, Coimbatore – 641 004.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorari to call for the records comprised in No.41445/A4/2018-5, dated 22.12.2018 on the file of the third respondent and the consequential orders in reference N/1006/1994, dated 28.01.2019 on the file of the fourth respondent and quash the same.

For Petitioner ... Ms.Dakshayani Reddy
(in all W.P's) Senior Counsel
for Ms.S.Suneetha

For Respondents ... Mr.R.Ramanlal
(in all W.P's) Additional Advocate General
assisted by
Mrs.S.Anitha
Special Government Pleader
for R1 to R3

Mr.R.Bharnidharan for R4



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COMMON ORDER

WEB COPY Heard Mr.Dakshayani Reddy, the learned Senior Counsel for the petitioner and Mr.R.Ramanlal, the learned Additional Advocate General for R1 to R3 and Mr.R.Bharnidharan, the learned counsel for R4.

2. The petitioners have filed these writ petitions challenging the order passed by the third and fourth respondents.

3. The petitioners joined as “Lecturers” (Ordinary Grade) in the fourth respondent college between the years 1994-1995. As per the All India Council for Technical Education (hereinafter referred as 'AICTE') Regulations, they were selected as Lecturer (Selection Grade) in the year 2006-2007.

4. Ms.Dakshayani Reddy, the learned Senior Counsel for the petitioners, submitted that in the year 2010, the Government revised the scale of pay and allowances to the teachers in equivalent cadres in Technical Universities, Government / Government Aided Engineering



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colleges governed by AICTE and issued Government Order in G.O.Ms.No.95, Higher Education (C2) Department dated 05.05.2010; on 22.01.2010, AICTE issued Regulations, 2010, for Pay Scales, Service Conditions and Qualifications for the Teachers and other Academic Staffs in Technical Institutions (Degree); as per the above regulation the incumbent Assistant Professor and Lecturers (Selection Grade) are entitled to pay band of Rs.37400- 67000/- with AGP pay of Rs.9000/-; as per the above regulations, the Lecturer (Ordinary Grade), Lecturer (Senior Grade) and Lecturer (Selection Grade) have been re-designated as Assistant Professor, Associate Professor and Professor.

4.1 The learned Senior Counsel for the petitioner attracted the attention of the Court to the following revised pay band allowed to the re-designated Assistant Professor as under:

“vi. The pay of the incumbents to the posts of Lecturer (Senior Scale) (i.e. the pre-revised scale of Rs.10,000-15200) shall be re-designated as Assistant Professors, and shall be fixed at the appropriate stage in Pay Band of Rs.15600-39100 based on their present pay, with AGP of Rs.7000.”



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4.2 Clause (ix) & (x) of the above Regulation would say about the re-designation of Associate Professor and incumbent Lecturer (Selection Grade) who had completed three years in the pre-revised pay scale of Rs.12000-18300 and those who have not completed in the above pay scale as on 01.01.2006, shall be placed in the pay band of Rs.15600-39100 with AGP of Rs.8,000/-, till they complete three years service. For better clarity, the said clauses are extracted hereunder:

“ (ix) Incumbent Assistant Professor and Incumbent Lecturers (Selection Grade) who have completed 3 years in the pre-revised pay scale of Rs.1200-18300 on 01.01.2006 shall be placed in Pay Band of Rs.37400-67000 with AGP Pay of Rs.9000 and shall be re-designated as Associate Professor.

(x) Incumbent Assistant Professor and Incumbent Lecturers (Selection Grade) who had not completed three 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 of Rs.8000 till they complete three years of service in the grade of Lecturer (Selection Grade), and thereafter shall be placed in the higher Pay Band of Rs.37400-67000 and accordingly re-designated as Associate Professor.”



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4.3 The petitioners are selection grade Lecturers and they have completed three years of service as on 01.01.2006; hence they are entitled to AGP pay of Rs.9000 in the pay band of Rs.37400-67000 with AGP pay of Rs.9000 and re-designated as Associate Professors with effect from the year 2009 and 2010 respectively; despite the petitioners have been given with the above benefit, the same has been cancelled on the ground that the subsequent Order of the Government which was issued in the year 2018 prescribes the following qualifications:

“Note 4: Candidates who do not fulfill the minimum score requirements under the API scoring system proposed in AICTE 2012 Regulations as per Table II(B) of Appendix I or those who obtain less than 50% in the expert assessment of the selection process will have to be re-assessed only after a minimum period of one year. The date of promotion shall be the date on which he/she is successfully re- assessed (Sl.No. 2.3 of AICTE 2012 notification).

Note 5: For teachers seeking promotion under CAS to Associate Professor, for those who on the date of this notification are Assistant Professors in Stage 2. the existing requirement of Ph.D or equivalent publications will continue to apply in case, some teachers do not also meet this criterias, the selection committee may give due weightage to criteria mentioned in AICTE 2012 regulations of Appendix categories I and II For all others who



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enter Stage 2, subsequent to this notification, the requirement of three publications as defined in these Regulations will be applicable (Page No. 63 of AICTE 2012 notification).”

4.4 By citing the above reasons, the earlier benefit conferred on the petitioners was cancelled. As per the submission of the learned Senior Counsel for the petitioners, new regulations will not be applicable to all those persons who have already got the required qualification as per the old regulations. As stated already, G.O.Ms.No.95 Higher Education (C2) Department, dated 05.05.2010 would only state the following :

“(xii)Incumbent Lecturers (Selection Grade) who had not completed three years in the pay scale of Rs. 12000-18300 on 1.3.2006 shall be placed at the appropriate stage in the Pay Band of Rs.15600-39100 with AGP of Rs.8000 till they complete 3 years of service in the grade of Lecturer (Selection Grade), and thereafter shall be placed in the higher Pay Band of Rs.37400-67000 and accordingly re- designated as Associate Professor.”

4.5 Consequently, AICTE issued notification in the year 2012 and the said regulation would state as under:



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“1.3 They shall come into force with effect from the date of their publication in the Official Gazette.

Provided that in the event, any candidate becomes eligible for promotion under Career Advancement Scheme in terms of these Regulations on or after 5th March, 2010, the promotion of such a candidate shall be governed by the provisions of these Regulations.”

4.6 The above regulations have been adopted by the issuance of the subsequent G.O.Ms.No.62, Higher Education (C2) Department, dated 02.04.2018. In the said Government Order, a saving clause - 'Clause (e)' has been given to the effect that the faculties who have already achieved the Career Advancement Scheme (in short 'CAS') Norms as per G.O.Ms.No.95 Higher Education (C2) Department, dated 05.05.2010, will be given with Academic Grade Pay progression and monetary benefits from the date of attaining eligibility. It was because of the fact that the said Government Order has already been implemented and given effect. For better clarification Clause (e) of G.O.Ms.No.95 Higher Education (C2) Department, dated 05.05.2010 is extracted hereunder:

“(e) The faculty who have already achieved the CAS norms as specified in G.O. (Ms) No.95, Higher Education (C2) Department,



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Dated 5.5.2010. before the issue of AICTE Regulations on 8.11.2012, 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.”

4.7 So the claim of the petitioners is that the petitioners are covered under the old regulation and hence they got their entitlement as per the above saving clause and the respondents ought not to have cancelled the same.

5. Mr.Ramanlal, the learned Additional Advocate General for the respondents 1 to 3, submitted that the petitioners will be covered under the new AICTE Regulations which was issued in the year 2018 and even for the AICTE Regulations of the year 2012, certain clarifications have been given in the year 2016 and the petitioner should be given with AGP only after the valuation is done by Screening cum Evaluation Committee and the Selection Committee and after attaining eligibility criteria as contemplated under G.O.Ms.No.62, Higher Education (C2) Department, dated 02.04.2018. It is further submitted that the Principal is not the



competent authority to allow AGP.

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6. The issue involved in these cases are as similar as that of similar issued raised by the teachers of the Polytechnic Colleges who have filed a batch of writ petitions in W.P.Nos.7135/2020, etc., in which after making a threadbare analysis of the Government Orders and the AICTE Regulations, the following conclusions and directions have been given by this Court:

“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, 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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7. G.O.Ms.No.95 Higher Education (C2) Department, dated

05.05.2010 which is applicable to Engineering College Teachers is analogous to G.O.(Ms). No. 111, Higher Education (C2) Department dated 25.05.2010 which is applicable to the Polytechnic Teachers. G.O.Ms.No.62, Higher Education (C2) Department, dated 02.04.2018 which is applicable to College teachers is analogous to G.O.(Ms) No.58 Higher Education (C2) Department, dated 21.03.2018.

8. The crux of the issue involved in the above mater is also typically same and the issue has been resolved only by invoking the saving clause in the subsequent AICTE Regulations. The AICTE Regulations which are applicable to the case of these petitioners has the same saving clause as it was found in the case taken for reference herein. The confusion is only because of not properly understanding the saving clause and by bringing all those persons who have got their eligibility even as per their earlier regulations to the new regulations. Hence it is not correct on the part of the Government to state that the petitioners should appear before the Selection Committee and the Selection Committee should do a reappraisal before



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allowing them AGP which have already been enjoyed by them in view of their attaining the eligibility before issuing the new regulations.

9. Since the matter is squarely covered by the order of this Court made in W.P.No.7135/2020 & batch, dated 06.03.2024, the findings rendered in the said order is applicable to the issue raised in this case also. In this regard, it is appropriate to extract the relevant paragraphs of the above order:

“ 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.?

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.

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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10. In view of the above discussions and observations made in the above case which is applicable to this case, the writ petitions are disposed by quashing the impugned orders and by giving the following conclusions:

i) G.O.(Ms).No.95, dated 05.05.2010 is applicable in respect of CAS, only for those persons who have attained the eligibility criteria on and from 05.05.2010 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.95, dated 05.05.2010 are not complied for those who attained the eligibility on and from 05.05.2010, they will also be eligible to get CAS, if they are otherwise qualified as per G.O.(Ms).No.95, dated 05.05.2010. This has been clarified in the subsequent G.O.(Ms).No.62, dated 21.03.2018.



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iv) For those persons, who have attained eligibility criteria before 05.05.2010 for getting CAS will only be governed under Regulations r/w G.O.(Ms.)No.305, dated 18.07.2000 and not G.O.(Ms).No.959, dated 05.05.2010.

11. As the impugned orders are set aside, the respondents 1 to 3 are directed to give notice to the petitioners within a period of two (2) weeks from the date of receipt of a copy 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. 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.95, dated 05.05.2010, the heads of the respective institutions themselves can sanction and pass orders. No costs. Connected



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miscellaneous petitions are closed.

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21.03.2024

Index: Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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To:

1. The Secretary to Government
State of Tamil Nadu,
Higher Education (C2) Department,
Secretariat, Fort St. George,
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