IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.24484 of 2023
and WMP.Nos.23905 & 23907 of 2023

1.G.Amudha
2.K.N.Thirupathi
3.R.Venkatesan
4.A.R.Subramanian
5.K.Raju
6.V.Senthilnathan
7.P.L.Thaiyalnayagi
8.R.Palanivel
9.L.Subramanian
10.G.N.P.Ravi ... Petitioners

Vs.

1.The State of Tamilnadu,
Rep. By Secretary to Government,
Higher Education Department,
Fort St.George,
Chennai 600 009
2.The Syndicate of Annamalai University,
Represented by its Secretary,
Annamalai University,
Annamalai Nagar,
Chidambaram
3.The Registrar,
Annamalai University,
Annamalai Nagar,
Chidambaram.

4.The Deputy Director,
Local Fund Audit,
Annamalai University,
Annamalai Nagar,
Chidambaram

5.The Finance Committee of Annamalai University,
Represented by its Secretary,
Annamalai University,
Annamalai Nagar,
Chidambaram ... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 2 nd respondent in resolution No.9, dated 24.12.2020 and quash the same as ultra-vires of the Annamalai University Act, illegal, incompetent, without jurisdiction and further direct the respondents the release the pensionary benefits of the petitioners including, Gratuity, surrendered and earned leave salary, commutation with interest of 12% per annum, from the date of their retirement till the date of realization within a time stipulated by this Court.

For Petitioners : Mr.M.Muruganantham

For Respondents
For R1 : Mrs.S.Anitha,
Special Government Pleader

For R2 to 5 : Mr.J.Ravindran,
Additional Advocate General
Assisted by

Mr.E.C.Ramesh,
Standing Counsel

ORDER

This Writ Petition has been filed challenging the Resolution dated 24.12.2020 passed by the second respondent, thereby resolved to pay the allowances for the serving employees and retired employees for stage movement of 7, 14 and 21 years against Government norms of completing 10 years and 20 years for special grade and additional increments for 30 years of service shall be worked out from 1994.

2. Heard, the learned counsel appearing on either side.

3. The petitioners were retired from Annamalai University from their respective posts. However, they were not paid any retirement benefits. As per G.O.Ms.No.595, dated 01.08.1992, which provided for ratio of 1 Assistant for every 2 Junior Assistants and 1 Superintendent for every 5 clerical staff in a section. On request made by the Employees' Association for its implementation, the Syndicate rejected the Government Order in Resolution dated 22.09.1993 and introduced a

Career Progressive Scheme, once in seven years to all non-teaching categories by the Resolution dated 01.10.1994. The Local Fund Audit Department raised objections for the reason that it is against the Government norms of the award of Selection Grade, after 10 years and Special Grade after 20 years of service in the absence of promotions. However, the audit objections were ignored by the Administration as the Syndicate had acted within its powers. Accordingly, all the retirement benefits were settled in full for the person retired before March, 2012. From the year 2012-2013, the third respondent has been adding a remark in the Title of Pensionary Benefits Certificates of a employees on selective manner, i.e., "as the II/III/IV stage pay as recorded on the page of the Service Register was fixed based on Syndicate Resolution dated 01.10.1994, if the Syndicate passes a new resolution altering it, the pensionary benefits would then need to be revised". Thus the fourth respondent preferred an audit objection restraining the settlement of the terminal benefits to the retirees.

4. In this regard, Dr.S.Muthukumaran Committee was

constituted, in order to formulate guidelines to bring about uniformity of service conditions among the non-teaching employees of all the universities on par with Government employees. In the year 2006, the Government issued G.O.Ms.No.402, Higher Education (H2 Department, dated 13.12.2006, based on the recommendations of the Government order that:

> *(a) the scales of pay of all the non-teaching staff of all the universities should be on par with the employees in the same category in the various Departments of the Government of Tamil Nadu.*
>
> *(b) The existing posts such as Senior/Deemed Superintendent, Senior Assistants shall not be filled up in future. These posts shall be converted as Selection Grade for those who have put in 10 years of service in the same post and Special Grade for those who have put in 20 years of service in the same post. It may be note that the L.F.A's objections and the orders of the Government in the G.O. are the same.*

5. The said Government Order was challenged before this Court in W.P.No.49 of 2007 etc., batch and this Court held that the G.O.Ms.No.402, Higher Education (H2) Department dated 13.12.2006,

as in operative and *ultra vires* of the provisions of the respective University Acts. The relevant portions of the order is extracted hereunder:-

> *"18. The legislature has enacted the Statutes, namely, the Acts of Universities But it is to be borne in mind that the legislature, while enacting the Acts, has delegated all powers on the Syndicate with regard to whole affairs of the Universities. In other words, the Universities, being body corporate having perpetual succession, have got a separate legal entity and, as such, the rules framed by the Government shall not be applicable, unless specifically adopted by the Universities in accordance with the provisions of the Acts by which the Universities are constituted. If the State makes rules or issues any executive instructions by way of regularization of services of the staff of Universities, it would be in violation of the provisions contained in Article 309 of the Constitution of India and opposed to the Constitutional scheme of equality clauses contained in Articles 14 and 16."*
>
> *"32(i). As the law has been made by the State Legislature conferring the power of regulation of service conditions of non-teaching staff of the Universities on*

the Syndicate, the Executive is not empowered to pass the impugned order in regard to that matter in exercise of his executive powers under Article 162 of the Constitution, nor can he exercise such power with reference to that matter through the officers subordinate to him".

"(v) Mere funding of the State to the Universities does not confer any privilege on the State to issue executive orders, so as to interfere with the administration of the Universities."

"(vi) Executive order, ie., the impugned order of the first respondent in G.O.Ms.No.402, Higher Education (H2) Department, dated 13.12.2006 is inoperative and it is accordingly declared ultra vires to the provisions of the Acts".

6. Therefore, the Syndicate has been conferred the authority through the University Act, to regulate the service conditions of the employees of the University and to fix their scale of pay. Even then, the Syndicate had passed Resolution No.41, dated 08.02.2017 ordering reduction of scales of pay of the non-teaching staff and pension of retirees. It was also challenged before this Court in W.P.No.10818 of 2017. However, subsequently, it was withdrawn with liberty to challenge

as and when any adverse order was passed

7. Now, the second respondent passed Resolution No.9, dated 24.12.2020 and accordingly, the Finance Committee resolved that the pay and allowances for the serving employees and retired employees for stage movement of 7, 14 and 21 years against Government norms of completing 10 years and 20 years for Special Grade and additional increments for 30 years of service shall be worked out from 1994 and placed before the Finance Committee. After the decision of the Finance committee necessary action including serving notices for refixing the pay for serving employees and pension for pensioners was done. However, no order has been passed by the Finance Committee so far. That apart, the petitioners were retired from their services even before the year 2023. However, they have not been paid terminal benefits. Therefore, the petitioners submitted their respective representations.

8. In view of the above discussion, the third respondent is directed to consider the representations submitted by the petitioners and

pass orders in merits and in accordance with law, in view of the order passed by this Court in W.P.No.49 of 2007 etc., batch of writ petitions, challenging the Government order in G.O.Ms.No.402, Higher Education (H2) Department, dated 13.12.2006 within a period of twelve weeks from the date of receipt of a copy of this order.

9. With the above direction, this writ petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

25.03.2024
(2/2)

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To
1.Secretary to Government,
The State of Tamilnadu,
Higher Education Department,
Fort St.George,
Chennai 600 009
2.Secretary,
The Syndicate of Annamalai University,
Annamalai University,
Annamalai Nagar,
Chidambaram
3.The Registrar,
Annamalai University,
Annamalai Nagar,
Chidambaram.
4.The Deputy Director,
Local Fund Audit,
Annamalai University,
Annamalai Nagar,
Chidambaram
5.Secretary,
The Finance Committee of Annamalai University,
Annamalai University,
Annamalai Nagar,
Chidambaram

W.P.No.24484 of 2023

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