

W.A.(MD)No.1488 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 20.09.2024

PRONOUNCED ON : 22.10.2024

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.A.(MD)No.1488 of 2018

and

C.M.P.(MD)No.10638 of 2018

1.The Madurai Kamaraj University,
represented by the Registrar,
Madurai – 625 021.

2.The Madurai Kamaraj University Constituent College,
represented by its Principal,
Andipatti – 625 512, Theni District. ... Appellants

vs

1.A.R.Nagarajan

2.The University Grants Commission,
represented by its Secretary,
Bahadur Shah Zafar Marg,
New Delhi – 110 002.

...Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order of this Court dated 12.12.2018 passed in W.P(MD)No.14523 of 2012.

1/12



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W.A.(MD)No.1488 of 2018

For Appellants :Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.T.Cibi Chakraborty
For R1 :Mr.C.Karthick
for Mr.S.Rajasekar
For R2 :Mr.B.Vijay Karthikeyan

JUDGMENT

(Judgment of this Court was delivered by **C.V.KARTHIKEYAN, J.**)

The 2nd and 3rd respondents in W.P(MD)No.14523 of 2012 have filed the present Writ Appeal aggrieved by the direction issued by a learned Single Judge in the Writ Petition, by order dated 12.02.2018.

2.The Writ Petition in W.P.(MD)No.14523 of 2012 had been filed by the first respondent, who was a Guest Lecturer at Madurai Kamaraj University Constituent College at Theni, in the nature of a Mandamus seeking a direction against the respondents in the Writ Petition to implement the University Grant Commission's guideline No.F.10-1/2009(PS) dated February 2010 and to refix the Honorarium for him in the post of Guest Lecturer at Rs.1000/- (Rupees One Thousand only) per hour with a maximum of Rs.25,000/- (Rupees Twenty Five Thousand only) per month

2/12



W.A.(MD)No.1488 of 2018

and pay the same with arrears with effect from 01.01.2010 within a stipulated time. The first respondent in the Writ Petition was the University Grants Commission (UGC).

3.The learned Single Judge while examining the Writ Petition had passed a very cryptic order, which is as follows:

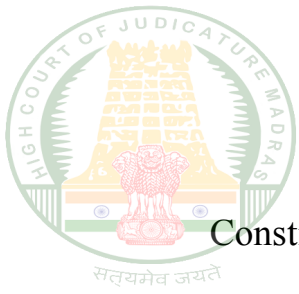
“The grievances of the writ petitioner is that the salary fixed for the 'Guest Lecturer' by the University Grants Commission has not been paid to the writ petitioner.

2.The petitioner states that the third respondent has not followed the University Grants Commission regulation in relation to the payment of wages to the Guest Lecturer. It is needless to state that the 'Guest Lecturers' appointed are eligible to get the Honorarium as fixed under the University Grants Commission regulation in force. Thus, the respondents are bound pay the Honorarium as applicable to the 'Guest Lecturer' under the guidelines issued by the University Grants Commission.

3.The learned counsel for the writ petitioner states that this Court also earlier considered the very same issue and passed order on 22.08.2012 in W.P(MD)No.4468 of 2012. However, now five years lapsed and this Court is of an opinion that the grievances in respect of payment of the Honorarium as per the University Grants Commission regulation is bound to be followed by the respondents.

4.With these observations, this writ petition stands disposed of. No costs.”

4.Questioning the above order, the 2nd and 3rd respondents, namely, the Madurai Kamaraj University and Madurai Kamaraj University



W.A.(MD)No.1488 of 2018

Constituent College at Theni where the Writ Petitioner discharged duty as Guest Lecturer have filed the present Writ Appeal.

5.It had been contended by the learned Additional Advocate General appearing on behalf of the appellants that neither the State Legislation nor the Syndicate of Madurai Kamaraj University had adopted the University Grants Commission's guidelines for the scheme of appointment/honorarium on Guest/Part Time Teachers as notified in Ref.No.F.10-1/2009(PS) issued in February 2010. It was therefore contended that the said guidelines are not binding on the appellants/University. It had also been stated by the learned Additional Advocate General that the reliance placed by the learned Single Judge on the earlier order of this Court in W.P.(MD)No.4468 of 2012, which was disposed on 22.08.2012 was erroneous, since the order therein had been reversed by a Division Bench of this Court in W.A(MD)No.205 of 2013 by order dated 22.02.2013. It was also contended that the Writ Petitioner was engaged only on ad-hoc and temporary basis for taking up teaching assignment in the Electronic and Communication subject classes for B.Sc. (Physics) degree course and was paid Rs.125/- per hour subject to a maximum of Rs.10,000/- per month.

4/12

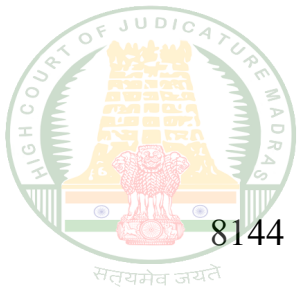


W.A.(MD)No.1488 of 2018

6.It was also contended that the Writ Petitioner was not appointed to any sanctioned post. It was stated that unless and until the State Government adopts and implements the same, the University Grants Commission's guidelines are not applicable to the University and Constituent College, since they come under the purview of the State Legislature.

7.The learned Counsel appearing for the University Grants Commission however argued that the guidelines of the University Grants Commission are applicable to the second appellant College, namely, Madurai Kamaraj University Constituent College and that the said College is duty bound to follow the guidelines and provide monthly salary accordingly to the Writ Petitioner. It was stated that taking note of the plight of the Guest Lecturers, who were paid a miserly amount, the University Grants Commission had come forward with the revised guidelines in February 2010. These guidelines had been communicated to the Registrars of all Universities and to the State Educational Secretaries and it had been specifically stated that the guidelines would come into effect from 01.01.2010. It was also stated that in Writ Petitions in W.P.(MD)No.

5/12



W.A.(MD)No.1488 of 2018

8144 of 2007 and W.P.No.37099 of 2007, a learned Single Judge of the Principal Seat had held that the Colleges are bound to comply with the conditions as laid down by the University Grants Commission and payment of salary should be equivalent to the scale of pay of the University Grants Commission and it was therefore contended that the obligation to pay honorarium in accordance with the revised guidelines cannot be denied.

8.The learned Counsel for the Writ Petitioner/first respondent in the Writ Appeal pointed out that the Writ Petitioner had been appointed after due process and that the appointment was made in accordance with the order of the Vice-Chancellor of the Madurai Kamaraj University after conducting interview. The learned Counsel pointed out the communication issued by the second appellant College to the first appellant/Madurai Kamaraj University seeking approval of the selected candidates including the Writ Petitioner as part-time Lecturers. It had therefore been contended that since the appointment had been done through due process, the appellants cannot deny payment of honorarium, as directed by the University Grants Commission. It was also contended that there would be no financial burden on the second appellant College, since the University



W.A.(MD)No.1488 of 2018

Grants Commission would reimburse the payment of honorarium. It was stated that the first appellant University should abide by the guidelines of the University Grants Commission.

9.The learned Additional Advocate General however questioned the very appointment of the Writ Petitioner and claimed that he was not appointed in the same manner as regular Teachers are appointed by two separate expert panels and therefore, questioned the very claim made by the Writ Petitioner.

10.We have carefully considered the arguments advanced.

11.The Writ Petitioner had filed the Writ Petition in the nature of a Mandamus seeking a direction against the appellants to follow the guidelines of the University Grants Commission relating to payment of honorarium to Guest Lecturers. The Writ Petitioner had been appointed as a Guest Lecturer to teach B.Sc. (Physics) degree students in the subject of Electronic and Communication. Recognising his appointment, his services as Guest Lecturer had actually been utilised by the second appellant



W.A.(MD)No.1488 of 2018

University College and he had also been paid honorarium.

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12.The Writ Petitioner claims that honorarium should have been paid in accordance with the guidelines of the University Grants Commission in Ref.No.F.10-1/2009(PS) issued in February 2010 which had been communicated to all the Universities with a direction that it should be followed. The scheme is that the honorarium should be initially paid to the Guest Lecturers and thereafter, when a bill is raised, it would be reimbursed by the University Grants Commission. Therefore, we are of the firm opinion that it does not hold in the mouth of the appellants that they are not obliged to pay the honorarium as directed by the University Grants Commission. They are bound by the direction of the University Grants Commission. If they refuse to do so, then they would invite derecognition by the University Grants Commission. There is no financial outflow on the part of the appellants.

13.The arguments advanced by the learned Additional Advocate General questioning the very appointment of the Writ Petitioner cannot be countenanced, since the appellants had actually been paid honorarium



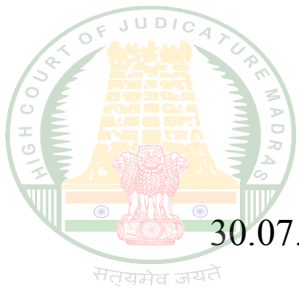
W.A.(MD)No.1488 of 2018

recognising the process under which he was appointed and recognising him as a Guest Lecturer duly authorised to impart lectures and receive honorarium. The only issue is about the scale of payment of honorarium, not the locus of the Writ Petitioner to seek payment of honorarium. The scale of pay had been determined by the University Grants Commission. The appellants are bound to follow the said guidelines.

14.The learned Additional Advocate General had placed reliance on a Division Bench judgment of this Court in W.A(MD)No.205 of 2013 by which the order relied on by the learned Single Judge in W.P(MD)No.4468 of 2012 had been set aside.

15.A careful perusal of the order in the Writ Appeal would indicate that the Division Bench had passed the said order only on the ground that the Writ Petitioner therein had not been appointed with respect to a sanctioned post. In the instant case, the distinguishing factor is that the Writ Petitioner had been appointed after following due process by a panel of experts after interview had been conducted in accordance with the directions of the Vice-Chancellor of the Madurai Kamaraj University dated

9/12



W.A.(MD)No.1488 of 2018

30.07.2009. A note had been put up which had also been approved. There are no other records produced by the appellants questioning the very appointment of the Writ Petitioner herein. Therefore, the order of the Division Bench relied on by the learned Additional Advocate General is certainly distinguishable on facts.

16.The learned Counsel for the University Grants Commission had stated that the guidelines of the University Grants Commission are binding on the appellant University/College. The Writ Petitioner was appointed after due process and his appointment had been recognised and he had also been paid honorarium and now only seeks honorarium in accordance with the revised guidelines of the University Grants Commission. We hold that the objection of the appellants does not withstand the scrutiny of this Court. If they want to deny the relief to the Writ Petitioner, then they must take a stand that they are not bound by the University Grants Commission and are an independent and separate entity, which stand if they take, would only invite derecognition. That would affect the appellant University on a larger sphere. It is also seen that the second appellant will have to effect the payment and raise a bill with the University Grants Commission.

10/12



W.A.(MD)No.1488 of 2018

17.In view of all these facts, we are of the firm opinion that the directions of the learned Single Judge will have to be necessarily complied with by the appellants. There cannot be denial of payment of honorarium to the Writ Petitioner in accordance with the guidelines fixed by the University Grants Commission.

18.In view of the above reasonings, the Writ Appeal stands dismissed. We issue a direction that the honorarium as determined by the University Grants Commission's guideline in Ref.No.F.10-1/2009(PS) should be paid in accordance with the said guidelines with effect from 01.10.2010 within a period of eight weeks from the date of receipt of a copy of this order. No costs Consequently, connected miscellaneous petition is closed.

[C.V.K., J.] & [J.S.N.P., J.]
22.10.2024

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Index :Yes/No
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11/12



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W.A.(MD)No.1488 of 2018

C.V.KARTHIKEYAN, J.

AND

J.SATHYA NARAYANA PRASAD, J.

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Judgment made in
W.A.(MD)No.1488 of 2018

22.10.2024