

(2011) 07 AP CK 0078

In the Andhra Pradesh High Court

Case No : Writ Petition No. 12752 of 2011

Dr. Gulam Rabbani

APPELLANT

Vs

Sathavana University, Karimnagar and others

RESPONDENT

Date of Decision : 20-07-2011

Acts Referred:

Andhra Pradesh University Act, 1991 — Section 19, 43, 49

Citation : (2012) 2 ALD 704

Hon'ble Judges : K.C. Bhanu, J

Bench : Single Bench

Advocate : N. Hari Prasad, for the Appellant; Deepak Bhattacharjee, Counsel for the Respondent Nos.1 and 2, Government Pleader for Higher Education, Counsel for the Respondent No. 3, for the Respondent

Final Decision : Dismissed

Judgement

K.C. Bhanu, J.—This writ petition is filed seeking to issue a writ of mandamus directing the respondents to pay the petitioner the regular U.G.C. scale of pay and regularize his services as Assistant Professor on par with the other similarly situated persons whose services were regularized. The case of the petitioner is that he has been engaged as a contract Lecturer in Economics Department in respondent University in the year 1996-97 and has been working as such. He possessed the qualification of M.A., MPhil., Ph.D., M.B.A., (PGDCA) and entitled to be absorbed as Assistant Professor in respondent No.1 Colleges. Respondent No. 1 University is paying him a consolidated pay of Rs. 20,000/- per month, but as per University Grants Commission (for short, "U.G.C."), the respondents have to pay him a salary of Rs. 30,000/- per month. In view of his long standing service as contractual lecturer for more than 14 years, he made repeated representations to the respondents to regularize his services and to pay the regular scale of pay as prescribed in the U.G.C. but in vain. Similarly situated contractual lecturers, who approached this Court, are being paid the UGC scales of pay. Hence, he filed this writ petition.

2. The respondents filed a counter contending that the petitioner is only an Academic Consultant or a Contract Lecturer. The petitioner neither applied for any notified vacancy nor faced the Selection Committee constituted in terms of Section 43 of A.P. Universities Act, 1991 (for short, "the Act") and the U.G.C. guidelines. The petitioner's service is governed by the contract of appointment i.e., the petitioner is appointed for a period of one academic year only. According to the needs, the Universities in Andhra Pradesh engage the teachers purely on temporary and contract basis for one academic year and at the end of the academic year, services of such academic consultants or contract teachers are automatically disengaged. The University is not entitled to appoint any teacher on regular basis unless the vacancy is permitted to be notified by the Government of Andhra Pradesh, as any such appointment shall have financial implication in terms of Section 49 of the Act. After the notification is issued, the candidature shall have to be recommended by a duly constituted selection committee as per U.G.C. guidelines. Further recommendation of the selection committee shall have to be again approved by the Executive Council of the University in exercise of its power u/s 19 of the Act. The petitioner has not fulfilled any of the criteria as submitted and hence, it is not possible for the University to regularize the services of the petitioner or pay the regular scale of an Assistant Professor.

The salaries of the teachers are paid out of the Block Grant released by the Government of Andhra Pradesh. For any enhancement of the salary, prior approval of Government of Andhra Pradesh is mandatory by operation of Section 49 of the Act. The contract teachers are appointed only to meet the temporary academic needs from time to time and it is purely a temporary arrangement. Therefore, the University, at its own volition, is not entitled to grant the regular scale to the petitioner.

The petitioner has not alleged violation of any statutory rules and regulations for seeking the grant of a regular scale of an Assistant Professor. The respondent University is a new university and it is suffering from deep financial constraints. In the event any order is passed to grant the regular scale to the petitioner, the university may have to provide the same relief to all the contract teachers and the university will not be in a position to share such a huge financial burden.

3. Learned Counsel for the petitioner contended that even though petitioner was working on contract basis for the last 14 years in the respondent University, regular U.G.C. pay scales have not been given and his services are not regularized on par with other similarly situated persons.

4. It is the contention of the learned Counsel for the petitioner that U.G.C. recommended to give the regular pay scales to the contract lecturers also, but the plea taken by the respondents is that it was not adopted by the University because of deep financial constraints. According to respondent, the contract teachers are appointed only to meet the temporary academic needs from time to time and it is purely a temporary arrangement and the salaries of the teachers

are paid out of Block Grant released by the Government of Andhra Pradesh. For any enhancement of the salary, prior approval of the Government is necessary by virtue of Section 49 of the Act. The petitioner is asking for regular U.G.C. pay scales. He was appointed on contract basis and his contract is being extended from time to time. Unless his services are regularized, the question of payment of pay attached to the post does not arise. Though it is stated that the services of some of his juniors were regularized and they were given regular pay scales, those particulars have not been furnished in the affidavit filed in support of this petition. Therefore, in the absence of any violation of a statutory right, the petitioner cannot get any relief. The petition is devoid of merit and is liable to be dismissed. The writ petition is dismissed. There shall be no order as to costs.