Dr. G. Suryanarayana Murthy Vs The Govt. of A.P. Education Dept. and Others

Court: Andhra Pradesh High Court

Date of Decision: Oct. 27, 2006

Acts Referred: Andhra Pradesh Education Act, 1982 â€" Section 2, 20, 21, 21(1), 21(2)
Andhra Pradesh Educational Institutions (Establishment, Regulation, Administration and Control of Institutions of Higher Education) Rules, 1987 â€" Rule 1(2), 2, 3, 4, 7
Constitution of India, 1950 â€" Article 1, 14, 16, 226, 39
Limitation Act, 1963 â€" Section 5

Hon'ble Judges: Ramesh Ranganathan, J

Bench: Single Bench

Advocate: P.R. Prasad, for the Appellant; Govt. Pleader for Respondent Nos. 1 and 2 and G. Vidya Sagar, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Ramesh Ranganathan, J.
Sanskrit is a language ""more perfect than Greek, more copious than Latin and more exquisitely refined than

either"" said Sir William Jones as early as in the year 1786. Sanskrit, one of the most ancient and greatest languages of human civilization, has

greatly influenced most other Indian languages. Sanskrit, once venerated as the repository of spiritual knowledge, was a medium which Indian

civilization, ever since the Vedic period, found its expression in. The Vedas, the Epics, the Dharma Sastras and the Mitaksara, are but some of the

Sanskrit works unmatched both in its form and content. There is a very large Sanskrit element in Telugu and other South Indian languages.

2. Even on the dawn of Indian independence, our founding fathers bore in mind the importance of Sanskrit in giving the new born nation its distinct

identity. The word "Bharat" in Article-1 of our Constitution is from Sanskrit. "Satyameva Jayate" our national motto is a Sanskrit quote and "Jana

Gana Mana", our National Anthem, is largely Sanskrit. The pride of place given to Sanskrit can be gathered from what Pandit Jawaharlal Nehru

said. To quote:

If I was asked what is the greatest treasure which India possesses and what is her finest heritage, I would answer unhesitatingly it is the Sanskrit

language and literature, and all it contains. This is a magnificent inheritance, and so long as this endures and influences the life of our people, so long

the basic genius of India will continue.

3. In the present times when economic considerations far outweigh all other aspects of life, Sanskrit, as a language, is slowly but surely paling into

insignificance. The case on hand illustrates this unfortunate situation. A Sanskrit Scholar, with a doctorate in the subject, beseeches this Court to

direct the competent government authorities, and the management of the college where he is working as a lecturer in Sanskrit, to shed their apathy

and give him his due. All that he asks is that he be paid the regular scales of pay which, though accorded to lecturers in other subjects, has been

unjustly denied to him.

4. Facts, in brief, are that the petitioner, a post graduate in Sanskrit, acquired his Doctorate (Ph.D) in Sanskrit in the year 1986 and was fully

eligible and qualified to be appointed as a Lecturer in Sanskrit. Considering the petitioner''s high academic credentials and research work, the 3rd

respondent made enquiries in the Andhra University and thereafter appointed him as a Lecturer in its college on 29-08-1987. The 3rd respondent,

a composite college, was hitherto running in two shifts i.e., the morning shift from 7.30 a.m. to 12.30 p.m. and the afternoon shift from 12.30 p.m.

to 5.30 p.m. According to the petitioner, the student strength in Intermediate, (both 1st and 2nd year), was more than 100 in each year and,

coupled with the 100 students in undergraduate courses, the total number of students in the third respondent college, who were taught Sanskrit,

was around 300. Though more than one Lecturer was required, no second Lecturer was appointed ever since Sanskrit was introduced as a

subject and he had to bear the entire work load. According to the petitioner he was made to work the whole day, was assigned classes in both the

shifts from 7.30 a.m. till 5.30 p.m., and was taking classes for 36 hours each week during the years between 1987 and 1992. The working hours

of the college was rescheduled in the year 1992 from 10.00 a.m. to 5.30 p.m. and, thereafter, the petitioner was assigned 28 hours of class work

each week. Petitioner would contend that he was discharging a heavier workload than that of a full-time/regular lecturer and that the work allotted

to him, in terms of working hours each week, was much more than what was assigned to lecturers in other disciplines. Though there were six aided

vacancies available in the college the respondents did not take steps to regularize his services and, while he was initially paid Rs. 1,440/- per

month, it was subsequently enhanced to Rs. 2,950/-. Petitioner would submit that he has three research papers to his credit, he has attended five

conferences, out of which one was a World Conference, that in the month of January, 1999 the 3rd respondent had recommended regularization

of his services to respondents 1 and 2 and that, while orders of regularization were issued in May, 1999, posting him to M.R. College,

Vizianagaram, along with eight other Lecturers whose services were also regularized, the said absorption proceedings were withdrawn on the

ground that the third respondent college had not obtained prior approval for his initial appointment. According to the petitioner while the

respondents had regularized the services of eight lecturers, who were all junior to him, his case alone had been rejected on flimsy grounds.

Petitioner would reiterate that he has been treated as a regular Lecturer ever since 1987, that he was treated as the head of the department of

Sanskrit, that he had been chosen for setting the Sanskrit question paper for C.R. Reddy College, Eluru and M.R. College, Vizianagaram, that he

was selected as a member of the Board of Studies for M.R. College, Vizianagaram, that the Board of Intermediate Education has been selecting

him periodically for spot valuation and many a time for revaluation of papers for degree colleges affiliated to the Andhra University, that he was

being selected as an internal examiner in the 3rd respondent college and that he has been working, ever since the date of his initial appointment as a

lecturer in 1987, for more than 28 hours each week, and that, though the maximum workload assigned to Lecturers of other colleges was only 18

hours per week, he had been denied regularization of his services and payment of regular salary and allowances as are applicable to lecturers in

aided posts.

5. In his additional affidavit, the petitioner would refer to G.O. Ms. No. 520, dated 15-12-1988, wherein the scales of pay of lecturers was

revised from the then existing scales of pay of Rs. 700-1600 to that of Rs. 2200-4000. He would submit that, while the pre-1993 state scales of

pay of a lecturer was Rs. 3640-7580, the revised 1993 state scales of pay of a lecturer was Rs. 6950- 14425 and that, under the 1996 revised

scales of pay, the pay scales of a lecturer was revised to Rs. 8000-13500. According to the petitioner, since the 3rd respondent college was a

composite degree college, U.G.C. scales of pay were applicable to its teaching staff. Petitioner would contend that, while the maximum work load

required to be allotted to a lecturer, under the U.G.C. guidelines, was only 18 hours per week, the petitioner had put in more than 28 hours per

week. He would further submit that he has been suffering from Cancer, that he has been taking treatment for the last six months and had undergone

an operation, that he has been advised to take radiation treatment (32 radiations) and Chemotherapy (five in all), that each injection costs about

Rs. 14,000/-, and that he was advised to take booster radiations, which are even costlier.

6. In the counter affidavit filed, on behalf of respondents 1 and 2, it is stated that the 3rd respondent college has been admitted to grant-in-aid, that

the combination of Sanskrit as a 2nd language was allowed as some of the students had opted for the said subject, that the management had

appointed the petitioner as a part-time lecturer without informing or obtaining prior permission of the government and, though the petitioner was

appointed during 1987 as a part-time lecturer, and may have fulfilled all the conditions stipulated by the government for his regularization, it had

come to their notice that the petitioner was appointed without prior permission only when the management was asked to submit proposals in

respect of all part-time lecturers who had fulfilled the conditions prescribed in terms of G.O.Ms.No.328, dated 15-10-1997. It is stated that,

amongst the conditions stipulated in the said G.O., is that there should be sanctioned posts, that the subject should be admitted to grant-in-aid and

since the post of Sanskrit as a subject, and as one of the second languages, was not admitted to aid, the petitioner was not entitled to claim

regularization of his services in terms of G.O.Ms. No. 328, dated 15-10- 1997. While admitting that the services of eight part-time lecturers,

working in the 3rd respondent college, had been regularized in terms of the said G.O., it is stated that they were regularized as the faculty in which

they were working was admitted to grant-in-aid. According to the respondents, since the petitioner was working against a non-existing post, which

was neither prescribed by the 1st respondent nor admitted to grant-in-aid, he was not entitled to claim regularization of his services.

7. The 3rd respondent, in its counter affidavit, would submit that the post of a lecturer in sanskrit was not sanctioned by the government, that the

petitioner herein was working only as a part-time lecturer since 1987-88 and, since the post of sanskrit lecturer was not sanctioned to the 3rd

respondent college, the petitioner could not have any claim for regularization and absorption into an aided vacancy in the 3rd respondent college.

The petitioner''s qualifications, and his appointment as a part-time lecturer on 29- 08-1987, are admitted. According to the 3rd respondent there

was not even a single aided vacant post of lecturer in sanskrit in the 3rd respondent college, that sanskrit as a subject was started as a second

language in intermediate as well as in the degree college and that students were permitted to study and write Sanskrit, as a second language, on

their own accord. According to the 3rd respondent it was obtaining permission to teach Sanskrit as a second language every year since 1989, that

as per G.O.Ms. No. 328 dated 15.10.1997, part-time lecturer were required to be absorbed into aided vacancies and, though proposals were

submitted to the government in the year 1999 to regularize the services of the petitioner, no regularization orders were received. The 3rd

respondent would contend that the petitioner was never a regular lecturer, that he was appointed only as a part-time lecturer and that part-time

lecturers do carry out certain works of a lecturer but that could not be the basis for the petitioner to claim that he should be treated as a regular

lecturer. The 3rd respondent would submit that it is not concerned with regularization of the petitioner''s services. With regards payment of regular

salary, the 3rd respondent submits that the petitioner would become eligible to draw regular salary only after regularization of his services and

absorption into an aided vacancy and that the post held by him would not entitle him for grant of regular scales of pay until, and unless, his services

were regularized.

8. On the additional affidavit being filed by the petitioner, on 17-02-2006, Sri G. Vidyasagar, learned Counsel appearing on behalf of the 3rd

respondent, sought time on 20-02-2006 to enable the 3rd respondent to file its counter- affidavit to the additional affidavit. The writ petition was

directed to be posted after two weeks. Again on 20-03-2006, the matter was adjourned by a week. After summer vacations, again on 06-06-

2006, at the request of the learned Counsel for the 3rd respondent, the matter was posted after two weeks. The matter was again adjourned from

22-08-2006 to 01-09-2006, despite which no counter affidavit was filed by any of the respondents to the additional affidavit filed on behalf of the

petitioner. It must, therefore, be presumed that the contents of the additional affidavit are not in dispute.

9. Sri P.R. Prasad, learned Counsel for the petitioner, would submit that Rule 7(4) of the Rules, notified in G.O. Ms. No. 29 dated 05-02-1987,

required the 3rd respondent to pay salaries to its staff on par with government pay scales. Learned Counsel would submit that, while the maximum

number of working hours for a part-time lecturer was between 9 to 12 hours each week, the petitioner was initially made to work 36 hours each

week as the 3rd respondent college, during the period 1987 to 1992, was working in two shifts, and for 28 hours per week when the single shift

system from 10.00 a.m. to 5.30 p.m, was introduced in the 3rd respondent college in the year 1992. Learned Counsel would submit that these

specific averments, in the affidavit filed in support of the writ petition, have not been denied and that, despite the heavy work load of 28 hours per

week, the petitioner was running the entire department of Sanskrit all by himself and that no second lecturer was appointed. According to the

learned Counsel, whatever may be the nomenclature, the fact remained that the petitioner was rendering services as a regular lecturer putting in

more than 28 hours work per week and, since the petitioner possessed the qualifications prescribed for a regular lecturer, he was entitled for

payment of salary and allowances on par with regular lecturers. Learned Counsel would refer to G.O.Ms. No. 127 dated 30-08-2000, wherein

the 1996 revised pay scales were extended to lecturers who were earlier drawing the state scales of pay. Annexure to the said G.O., details the

pay which a lecturer appointed, on or after 01-07- 1998, is entitled to. Learned Counsel would refer to G.O.Ms. No. 166, dated 08- 06-1994,

whereunder part-time lecturers working in government degree colleges were entitled for payment of salary and allowances, calculated on the basis

of the minimum scale of pay, and for regularization of their services. Learned Counsel would submit that the minimum scale of pay was extended,

with effect from the beginning of the academic year 1992-93, to such of those part-time lecturers who had been working in regular vacancies or

where the work justified appointment of a regular lecturer for more than three years by 30-04-1991 or were teaching over 16 periods per week

and that the government had decided that, in case of such lecturers, salary calculated at the minimum scale of pay i.e., the revised 1993 state scales

of pay of Rs. 3640-7580 shall be paid instead of on an hourly basis from the commencement of the academic year 1992-93.

10. Learned Counsel would submit that while the petitioner, because of his continued ill-health, is not pressing for the relief of regularization of his

services, in view of Rule 7(4), of the Rules notified in G.O.Ms. No. 29, dated 05-02-1987, the petitioner was entitled for payment of regular

scales of pay on par with government pay scales. Learned Counsel would rely on the judgment of the Supreme Court in K. Krishnamacheryulu v.

Venkateswara Hindu College of Engingeering 1997(3) SC 433 and the judgments of this Court in N. Suvarna Raju v. State of A.P. Judgment in

W.P. No. 5137 of 1989 dated 22-06-1990 and M.D. Soujanya v. S.V.V.P.V.M.C. Mahila Vidya Peeth Judgment in W.P. No. 22335 of 1996

dated 24-01-2006.

11. Learned Government Pleader for School Education would submit that it is only when a post is admitted to grant-in-aid would the government

be liable for payment of salaries for such aided posts and, since the post of lecturer in sanskrit in the 3rd respondent college was not admitted to

grant-in-aid, the question of regularizing the services of the petitioner as a lecturer in an aided post or the government being required to pay him

salary does not arise.

12. Sri G. Vidya Sagar, learned Counsel for the 3rd respondent, would submit that Rule 7 of the Rules notified in G.O.Ms. No. 29, dated 05-02-

1987, prescribes the staff pattern and, under Sub-rule (1) of Rule 7, the staff pattern for various classes/categories of educational institutions shall

be prescribed by the Board of Intermediate Education or the Director of Higher Education as the case may be. Learned Counsel would submit

that, under Rule 7(2)(b), appointment of teaching staff in private educational institutions shall be, by way of recruitment, through the Andhra

Pradesh Public Service Commission or as per the procedure prescribed by the government from time to time, that under Rule 7(3) the competent

authority, for approval of appointments of teaching-staff or intermediate education, shall be the Board of Intermediate Education and, for other

educational institutions, the university concerned. He would submit that, under Rule 7(3) of the Rules, the educational agency shall get the list of

selected candidates approved by the competent authority within one month from the date of making the appointments, submitting its application in

FORM-IV. According to the Learned Counsel, since Sub-rule (4) of Rule 7 requires the educational agency or any private institution to pay

salaries to its staff as per the government scales of pay following such procedure as may be prescribed by the government, from time to time in this

regard, and as the petitioner was appointed as a part-time lecturer, he was only entitled for payment as a part-time lecturer and not for the benefit

of regular pay scales which a regular lecturer was entitled to. Learned Counsel would refer to G.O.Ms. No. 208, dated 29-06-1999, more

particularly to clause-11 in the Appendix thereto which deals with part-time lecturers, and would submit that, while the minimum qualifications

prescribed for appointment as part-time lecturers is the same as that of regular lecturers and they are also to be selected by regularly constituted

selection committees it is only in exceptional circumstances, when it is appropriate to the requirements of the institution, in terms of the subjects to

be taught or the workload, that they can be appointed on contract for short periods or as permanent half-time/proportionate time employees

against half/proportionate salary of the scale, and that such permanent part-time teachers are also entitled to the scheme of career advancement

from lecturers to senior scale lecturers, selection grade lecturers/readers, and professors, but, however, they would be entitled to

half/proportionate amount of the basic of the pay-scale and for proportionate increments, dearness allowance and other permissible benefits.

Learned Counsel would submit that, in view of the executive instructions issued in G.O.Ms. No. 208, dated 29-06-1999, the petitioner was not

entitled for regular scales of pay and was merely entitled for proportionate pay. Learned Counsel would submit that, while the petitioner claims

regular scales of pay from the date of his initial appointment, the fact remains that he has approached this Court only in the year 2000 and, in view

of the inordinate delay in invoking the extra- ordinary jurisdiction of this Court, the petitioner must be denied the relief sought for in the writ petition.

Learned Counsel would place reliance on Orissa University of Agriculture and Technology and Another Vs. Manoj K. Mohanty, , Mahendra L.

Jain and Others Vs. Indore Development Authority and Others, , Secretary, State of Karnataka and Others Vs. Umadevi and Others, .

13. Before examining the rival contentions, it is necessary to take note of the relevant statutory provisions. In exercise of the powers conferred by

Sections 20 and 21 read with Section 99 of the Andhra Pradesh Education Act, 1982, the Andhra Pradesh Educational Institutions

(Establishment, Recognition, Administration and Control of Institutions of Higher Education) Rules, 1987 were made and notified in G.O.Ms. No.

29 dated 5.2.1987. Under Rule 1(2), these rules apply to all educational institutions (both government and private), imparting degree courses in the

State of Andhra Pradesh. Rule 2(d) defines competent authority to be the authority who is competent to grant permission/recognition/affliation, as

the case may be, to the educational institutions. Rule 3 provides that the competent authority for granting or withdrawing permission shall be the

Commissioner. Rule 4 relates to the conditions of grant of permission and Rule 7, the staff pattern. Rule 7(2)(b) provides that appointment of

teaching staff in private educational institutions shall be by way of recruitment through the Andhra Pradesh College Service Commission or as per

the procedure prescribed by the government from time to time. Rule 7(4) provides for payment of salaries and thereunder the educational agency

of any private institution shall pay salaries to its staff as per the government scales of pay and by following such procedure as may be prescribed by

the government, from time to time, in this regard. For convenience sake, Rule 7 is extracted below in its entirety:

7(1) Staff Pattern:- The staff pattern for various classes/categories of educational institutions shall be prescribed by the Board of Intermediate

Education/University/Director of Higher Education, as the case may be.

(2) Appointment of teaching and non-teaching staff:- (a) Appointment of teaching and non-teaching staff in the Government educational institutions

shall be by way of recruitment through the Andhra Pradesh Public Service Commission or as per the procedure prescribed by the Government

from time to time.

(b) Appointment of teaching staff in private educational institutions shall be by way of recruitment through the Andhra Pradesh College Service

Commission or as per the procedure prescribed by the Government from time to time.

(c) Appointment of non-teaching staff in private educational institutions shall be by the Selection Committee from among the candidates sponsored

by the Employment Exchange or drawn through newspaper advertisements in case the Employment Exchange could not sponsor suitable

candidates. The Selection Committee shall comprise of the following members and the quorum for the Selection Committee shall not be complete

unless atleast four of the five members are present. The candidates approved by majority members present shall be deemed to have been selected

by the Committee-

(i) a nominee of the educational agency;

(ii) the Principal of the Institution;

(iii) one representative of the Board of Intermediate Education/University concerned as the case may be;

(iv) two nominees of the Director of Higher Education.

(3) Competent authority for approval of appointments:- The competent authority for approval of appointments of teaching-staff of Intermediate

education shall be the Board of Intermediate Education and that for other educational institutions shall be the university concerned. The competent

authority for approval of appointments of non-teaching staff in all the institutions shall be the Director.

The educational agency shall get the list of selected candidates approved by the competent authority within one month from the date of making the

appointments, by applying through FORM-IV. Appointments made as per selection by Service Commission, however do not require further

approval.

(4) Payment of salaries to staff:- The educational agency of any private institution shall pay salaries to its staff as per the Government scales of pay

and by following such procedure as may be prescribed by Government from time to time, in this regard.

Section 20 of the A.P. Education Act relates to permission for establishment of educational institutions and Section 21 relates to grant or

withdrawal of recognition of institutions imparting education. u/s 21(1), the competent authority may grant recognition to an educational institution

subject to such conditions as it may prescribe in regard to accommodation, equipment, appointment of teaching staff, etc. Under Sub-section 2(f)

where the manager of a private educational institution contravenes any of the provisions of the Act, the rules and orders made thereunder, the

competent authority may, for reasons to be recorded in writing, withdraw the recognition granted earlier to such an institution or take such other

action as is deemed necessary after giving the manager an opportunity of making a representation against such withdrawal. Contravention of the

rules, made under the A.P. Education Act, would entail withdrawal of the recognition granted to a private educational institution. Section 99 of the

Andhra Pradesh Education Act, 1982 is the rule making power. Since the rules, notified in G.O.Ms. No. 29 dated 05.02.1987, were made in

exercise of the powers conferred under Sections 20 and 21 read with Section 99 of the A.P. Education Act, contravention of these statutory rules

would, u/s 21(2)(f) of the A.P. Education Act, entail withdrawal of the recognition granted to a private educational institution. As noted above,

Rule 7(4) relates to payment of salaries to the staff of private institutions and thereunder the educational agency of the private institution shall pay

salaries to its staff as per the government scales of pay and by following such procedure as may be prescribed by the government from time to

time. While payment of salaries to its staff, as per government scales of pay, is mandatory, the procedure or the manner in which it is required to be

paid shall be as is prescribed by the government from time to time. Even in the absence of a specific procedure being prescribed, regarding the

manner in which such payment is required to be made, the statutory obligation of the educational agency of the private institution, to pay salaries to

its staff as per government pay scales continues to remain and compliance of this statutory requirement can be enforced by a mandamus from this

Court.

Even according to respondents 1 and 2 they had granted permission to the 3rd respondent - college for Sanskrit to be offered as a course and to

be taught as a subject both at the intermediate and at the under-graduate level. The objection raised by them, to the petitioner"s services being

regularized, is that the 3rd respondent had not obtained their prior permission to appoint him as a lecturer and that his appointment was not in a

sanctioned post. Having granted permission, for Sanskrit to be offered as a course and to be taught as a subject, it is implicit that a post of lecturer

in Sanskrit has been sanctioned, for it is defies reason as to how Sanskrit as a subject could have been taught without, in the first place, a lecturer

in Sanskrit being appointed to teach the subject. It is only when a post of lecturer is sanctioned and a person is appointed to the said post could the

3rd respondent have offered Sanskrit as a language/subject to be taught to its students both at the intermediate and the under-graduate level. The

fact that Sanskrit as a language has not been considered important enough to be admitted to aid, while other faculties have been, is a sad reflection

of its dwindling importance. Failure of respondents 1 and 2 to regularize the services of the petitioner would have necessitated further examination,

but for the submission of Sri P.R. Prasad, learned Counsel for the petitioner, that in view of the critical health condition of the petitioner, who is

suffering from cancer, the relief of regularization of services is not being pressed and his claim is limited only for payment of salary and allowances,

from the date of his initial appointment on 29.8.1987, on par with regular lecturers who are being paid government pay scales. Since the

petitioner"s claim in the present writ petition is now restricted only for payment of regular scales of pay, on par with government pay scales, under

Rule 7(4) of the Rules notified in G.O.Ms. No. 29 dated 05.02.1987, whereunder the obligation for effecting such payment is on the 3rd

respondent college, it is wholly unnecessary for this Court to examine whether the petitioner ought to have been appointed in an aided post or

whether the post in which he has been working should have been admitted to grant in aid.

14. The averments in the affidavit, and in the additional affidavit filed by the petitioner, that he was working for 36 hours each week during the

period 1987-1992 and for 28 hours each week from 1992 onwards, whereas regular lecturers were required to put in only 18 hours of classes

each week and part time lecturers to work only for 12 hours each week, are not denied by the respondents. It is also not in dispute that the

petitioner possesses the qualifications required for being appointed as a regular lecturer. The contention urged on behalf of the 3rd respondent is

that, since the petitioner was appointed only as a part time lecturer and not as a regular lecturer, he was entitled only for the benefit of the pay

scales of a part time lecturer and not for regular scales of pay which a regular lecturer was entitled to, and that only after his services are

regularized, and the post in which he is working is admitted to grant in aid, would he be entitled to regular scales of pay. The nomenclature given to

the post held by the petitioner as part-time lecturer apart, the fact that he was the only Sanskrit lecturer in the 3rd respondent - college, being made

to carry the entire work load both for intermediate and under-graduate courses, is not in dispute. The fact that he had initially put in more than 36

hours of work each week and thereafter 28 hours each week, as against the prescribed 18 hours of work each week for a regular lecturer, is also

not in dispute. It does not, therefore, stand to reason that, merely because he has been designated as a ""part-time lecturer"", he should be denied

the scales of pay applicable to regular lecturers and his claim be limited only to that of a part-time lecturer. As noted above Rule 7(4), of the

statutory rules in G.O.Ms. No. 29 dated 5.2.1987, required the 3rd respondent to pay salary to its staff on par with government pay scales and it

was legally bound to do so.

15. The Government, in G.O.Ms. No. 166 dated 8.6.1994, has specifically held that part time lecturers working in Govt. degree/junior colleges in

regular vacancies or where work justified appointment of a regular lecturer for more than 3 years by 30.4.1991 or teaching over 16 periods per

week shall be allowed to continue till completion of selection and appointment under the scheme and that they be paid salary calculated on a

minimum scale of pay and allowances, instead of on an hourly basis, from the commencement of the academic year 1992-93. The fact that, during

the period 1987-92, the total number of Sanskrit classes conducted in the 3rd respondent college was 36 hours each week, as against the

prescribed 18 hours per week for a regular lecturer, is not in dispute. As such two of the conditions in G.O.Ms. No. 166 dated 08.06.1994 that

the work should justify appointment of a regular lecturer for three years by 30.04.1991 and that more than 16 periods should be taught each

week, are satisfied. While the instructions in G.O.Ms. No. 166 dated 08.06.1994 applies to government degree/junior colleges, Rule 7(4) of the

rules in G.O.Ms. No. 29 dated 05.02.1987 requires the staff in private institutions also to be paid government scales of pay. As such, in

accordance with the instructions issued by the government, in G.O.Ms. No. 166 dated 08.06.1994, read with Rule 7(4) of the rules notified in

G.O.Ms. No. 29 dated 05.02.1987, even as a ""part-time lecturer"" the petitioner was entitled for payment of the minimum scales of the pay and

allowances applicable to regular lecturers. Reliance placed on behalf of the 3rd respondent, on G.O.Ms. No. 208 dated 29.6.1999, to contend

that the petitioner shall only be entitled for the proportionate amount of the pay scales of a lecturer does not merit acceptance. In G.O.Ms. No.

208 dated 29.06.1990 the Government, after careful consideration of the revised University Grants Commission guidelines, the suggestions of the

Government of India and the recommendations of the five member committee, decided to extend the revised U.G.C. scales of pay to teachers,

librarians and physical educational personnel in universities and colleges in the State as shown in the schedule to the order. These pay scales were

made applicable to those drawing pay in the A.P. revised UGC scales of pay 1986 and were working as teachers in universities and affliated

degree and post-graduate colleges, whether government or private aided colleges, and also to the physical education personnel and librarians in the

said universities and colleges. Clause 14 of the said G.O. relates to service conditions and thereunder the government, after considering the

recommendations of the U.G.C, and after taking into consideration the recommendations of the five member committee, decided that the service

conditions of teachers like recruitment and qualifications, selection procedure, career advancement, teaching days, work load, code of professional

ethics, accountability etc shall be as indicated in the Appendix to the order and that the same shall be implemented by all Universities and the

Director of Collegiate Education within a time frame of three months from the date of issue of the order by amending necessary statutes,

ordinances, rules and regulations. Amongst the service conditions specified in the Appendix to the said G.O, Clause 11 relates to part time

teachers and reads thus:

The minimum qualifications for appointment of part-time teachers should be the same as that of regular teachers and selected by regularly

constituted Selection Committees. The part-time teachers should be appointed only in exceptional circumstances when it is appropriate to the

requirements of the institution in terms of subjects to be taught or work load. They can be appointed on a contract appointment if only for a short

period or as permanent half time/proportionate time employees against half/proportionate salary of the scale (and should include proportionate

increments, dearness allowance and any other permissible benefits). Such permanent part-time teachers will also be entitled to the Scheme of

Career Advancement from Lecturer to Senior Scale Lecturer, Selection Grade Lecturer/Reader, and Professor. However, they will be entitled to

half/proportionate amount of the basic of the scale and proportionate increments, dearness allowance and any other permissible benefits.

As noted above, Clause 14 of G.O.Ms. No. 208 dated 29.06.1999 relates to the service conditions of University and College Teachers including

recruitment, qualifications etc. Since the government order, in G.O.Ms. No. 208 dated 29.06.1999, is prospective in its application it would apply

only to those who were to be recruited as part time lecturers after issuance of the said G.O. and not to those who had already been appointed

prior thereto. It is not open to the 3rd respondent to place reliance on the said G.O., to take advantage of its own wrong, in appointing the

petitioner as a ""part time lecturer"" as early as on 29.08.1987 and ever since extracting more work from him than that of a regular lecturer, to

contend that under G.O.Ms. No. 208 dated 29.06.1999 it ought not to have appointed ""part time lecturers"" in the first place. Reliance placed on

G.O.Ms. No. 208 dated 29.06.1999 is therefore of no assistance to the 3rd respondent.

16. The judgment of the Supreme Court in Secretary, State of Karnataka and Others Vs. Umadevi and Others, , on which reliance is placed, is

also of no assistance to the 3rd respondent. In Umadevi6, the Supreme Court observed:

... The concept of ""equal pay for equal work"" is different from the concept of conferring permanency on those who have been appointed on ad hoc

basis, temporary basis, or based on no process of selection as envisaged by the rules. This Court has in various decisions applied the principle of

equal pay for equal work and has laid down the parameters for the application of that principle. The decisions are rested on the concept of equality

enshrined in our Constitution in the light of the directive principles in that behalf. But the acceptance of that principle cannot lead to a position

where the court could direct that appointments made without following the due procedure established by law, be deemed permanent or issue

directions to treat them as permanent. Doing so, would be negation of the principle of equality of opportunity....

...The High Court has directed that those engaged on daily wages, be paid wages equal to the salary and allowances that are being paid to the

regular employees of their cadre in government service, with effect from the dates from which they were respectively appointed. The objection

taken was to the direction for payment from the dates of engagement. We find that the High Court had clearly gone wrong in directing that these

employees be paid salary equal to the salary and allowances that are being paid to the regular employees of their cadre in government service, with

effect from the dates from which they were respectively engaged or appointed. It was not open to the High Court to impose such an obligation on

the State when the very question before the High Court in the case was whether these employees were entitled to have equal pay for equal work

so called and were entitled to any other benefit. They had also been engaged in the teeth of directions not to do so. We are, therefore, of the view

that, at best, the Division Bench of the High Court should have directed that wages equal to the salary that is being paid to regular employees be

paid to these daily-wage employees with effect from the date of its judgment. Hence, that part of the direction of the Division Bench is modified

and it is directed that these daily-wage earners be paid wages equal to the salary at the lowest grade of employees of their cadre in the

Commercial Taxes Department in government service, from the date of the judgment of the Division Bench of the High Court. Since, they are only

daily-wage earners, there would be no question of other allowances being paid to them....

While dealing with the applicability of the doctrine of ''equal pay for equal work'', the Apex Court, in Umadevi6, held that in cases where

employees were engaged on daily wages, without complying with the procedure established by law, they were not entitled to claim parity in wages

invoking this doctrine, that the High Court ought not to have directed payment of regular pay scales from the date of initial appointment of such

daily wage employees as the very question before the High Court was whether these employees were entitled to ''"equal pay for equal work"'' and

other benefits and as they had been engaged in the teeth of directions not to do so. It is in such circumstances that the Supreme Court directed that

such daily wage employees be paid wages equal to the salary at the lowest grade of employees of their cadre from the date of the judgment of the

Division bench of the High Court and held that as they were daily wage earners there was no question of other allowances being paid to them. As

noted above the statutory rules, notified in G.O.Ms. No. 29 dated 05.02.1987, were in force even prior to the date of the petitioner''s initial

appointment, as a part time lecturer in the 3rd respondent college, on 29.08.1987. Rule 7(4) of these rules required the 3rd respondent to pay

salaries to its staff on par with government pay scales. Specific averments are made by the petitioner, both in his affidavit and the additional

affidavit, that he was initially made to work for more than 36 hours per week, during the period 1987-1992, and thereafter 28 hours per week as

against the prescribed 18 hours per week for regular lecturers. These averments have not been denied either by the official respondents or the 3rd

respondent college, in their respective counter-affidavits. The fact that the petitioner possesses the requisite qualifications for being appointed as a

regular lecturer is also not in dispute. Since a statutory obligation was cast on the 3rd respondent to pay salaries to its staff on par with the

government scales of pay, the 3rd respondent cannot wriggle out of compliance, of these statutory requirements, on the specious plea that it is only

on regularisation of his services and his appointment in an aided vacancy, that the petitioner is eligible for regular pay scales. The judgment in

Umadevi6, which deals with engagement of daily wage workers in the face of a prohibition against their engagement, cannot be applied to the facts

of the present case. In Mahendra L. Jain and Others Vs. Indore Development Authority and Others, , the Supreme Court held thus:

... The appellants having been employed on daily wages did not hold any post. No post was sanctioned by the State Government. They were not

appointed in terms of the provisions of the statute. They were not, therefore, entitled to take recourse to the doctrine of ''''equal pay for equal work

as adumbrated in Articles 14 and 39(d) of the Constitution. The burden was on the appellants to establish that they had a right to invoke the said

doctrine in terms of Article 14 of the Constitution. For the purpose of invoking the said doctrine, the nature of the work and responsibility attached

to the post are some of the factors which were bound to be taken into consideration. Furthermore, when their services had not been regularized

and they had continued on a consolidated pay on ad hoc basis having not undergone the process of regular appointments, no direction to give

regular pay scale could have been issued by the Labour Court.

A scale of pay is attached to a definite post and in case of a daily- wager, he holds no posts. The respondent workers cannot be held to hold any

posts to claim even any comparison with the regular and permanent staff for any or all purposes including a claim for equal pay and allowances. To

claim a relief on the basis of equality, it is for the claimants to substantiate a clear cut basis of equivalence and a resultant hostile discrimination

before becoming eligible to claim rights on a par with the other group vis-a-vis an alleged discrimination. No material was placed before the High

Court as to the nature of the duties of either categories and it is not possible to hold that the principle of "equal pay for equal work" is an abstract

one....

In Manoj K. Mohanty (2003) 5 Supreme Court Cases 188, the Supreme Court observed:

... The High Court before directing to give regular pay scale to the respondent w.e.f. September 1997 on the principle of ""equal pay for equal

work"" did not examine the pleadings and facts of the case in order to appreciate whether the respondent satisfied the relevant requirement such as

the nature of work done by him as compared to the nature of work done by the regularly appointed Junior Assistants, the qualifications,

responsibilities etc. When the services of the respondent had not been regularized, his appointment was on temporary basis on consolidated pay

and he had not undergone the process for regular recruitment, direction to give regular pay scale could not be given that too without examining the

relevant factors to apply the principle of ""equal pay for equal work"". It is clear from the averments made in the writ petition extracted above,

nothing is stated as regards the nature of work, responsibilities attached to the respondent without comparing them with the regularly recruited

Junior Assistants. It cannot be disputed that there were neither necessary averments in the writ petition nor was any material placed before the

High court so as to consider the application of the principle of ""equal pay for equal work"".

Before giving such direction, the High court also did not keep in mind as to what would be its implications and impact on the other employees

working in the appellant University. From the averments made in the writ petition extracted above, it is clear that no details were given and no

material was placed before the High Court for comparison in order to apply the principle of ""equal pay for equal work"". This Court in State of

Haryana and Others Vs. Jasmer Singh and Others, , observed that the principle of ""equal pay for equal work"" is not always easy to apply. There

are inherent difficulties in comparing and evaluating work done by different persons in different organizations or even in the same organization.

In the absence of necessary averments and materials placed on record, there was no scope to give direction as is done by the High Court in the

impugned order. The burden was on the respondent to establish that he has a right to equal pay on the principle of ""equal pay for equal work

relying on Article 14 of the Constitution. That having not been done, the respondent was not entitled to the direction to get regular pay scale w.e.f.

September 1997. This being the position, it is unnecessary to examine the other contentions urged and decisions cited by the learned Counsel for

the respondent....

In Mahendra L. Jain and Others Vs. Indore Development Authority and Others, , the daily wage employees were not appointed in terms of the

provisions of the statute. The Apex Court held that the burden was on such employees to establish that they had the right to invoke the doctrine of

equal pay for equal work"" in terms of Article 14, 16 and 39(d) of the Constitution of India, that daily wage employees cannot be said to hold any

post, and were not entitled to compare themselves with regular and permanent staff to base their claim for equal pay and allowances and that, to

claim such a relief, it was for them to substantiate a clear cut basis of equivalence and a resultant hostile discrimination before becoming eligible to

claim rights on par with the other group vis-a-vis an alleged discrimination.

In Mahendra L. Jain and Others Vs. Indore Development Authority and Others, , the Supreme Court took note of the lack of pleadings with

regard to the nature of work, responsibility etc attached to the posts in which employees, appointed on consolidated wages, were working and

held that in the absence of necessary averments to compare their cases with the regularly recruited junior assistants, the principle of ""equal pay for

equal work"" could not be applied. The Apex Court held that the burden was on those employees to establish that they had the right to equal pay

on the principle of ""equal pay for equal work"" and that such burden had not been discharged. Both these judgments have no application to the case

on hand.

In the present case, the petitioner had been appointed pursuant to the permission having been accorded by respondents 1 and 2 to the 3rd

respondent to have Sanskrit offered as a course to its students. The 3rd respondent cannot take advantage of its own wrong in not obtaining

permission of respondents 1 and 2 while initially appointing the petitioner as a part time lecturer on 29.08.1987. The petitioner possesses the

requisite qualifications and has been discharging the functions of a lecturer in Sanskrit ever since his initial appointment in 1987. That he is a scholar

of repute is clear from the fact that the Board of Intermediate Education has been periodically appointing him as an examiner to conduct spot

valuation and for revaluation of papers of other affiliated colleges of Andhra University and that he has been asked to set papers and value answer

sheets. Unlike in Mahendra L. Jain and Others Vs. Indore Development Authority and Others, and Orissa University of Agriculture and

Technology and Another Vs. Manoj K. Mohanty, in the present case the statutory rules, in G.O.Ms. No. 29 dated 05.02.1987, confer on the

petitioner the right to claim the benefit of regular pay scales on par with government pay scales. The pleadings, in the affidavit and the additional

affidavit, as referred to in the earlier paragraphs, would establish that the petitioner has discharged the burden of claiming such parity in pay scales.

In K. Krishnamacharyulu 1997(3) Supreme 433, the Supreme Court held that teachers, who teach and impart education, get an element of public

interest in the performance of their duties and that, as a consequence, the element of public interest required that the conditions of service of those

employees be regularized on par with government employees. The Apex Court held that teachers, appointed to posts in private institutions, were

also entitled to seek the benefit available to others and were entitled to equal pay on par with government employees under Article 39(d) of the

Constitution. To quote:

... It is not in dispute that executive instructions issued by the Government had given them the right to claim the pay scales so as to be on par with

the Government employees. The question is: when there is no statutory rules issued in that behalf, and the Institution, at the relevant time, being not

in receipt of any grant-in-aid; whether the writ petition under Article 226 of the Constitution is not maintainable? In view of the long line of

decisions of this Court holding that when there is an interest created by the Government in an Institution to impart education, which is a fundamental

right of the citizens. The teachers who teach the education gets an element of public interest in the performance of their duties. As a consequence,

the element of public interest requires to regulate the conditions of service of those employees on par with Government employees. In

consequence, are they also not entitled to the parity of the pay scales as per the executive instructions of the Government? It is not also in dispute

that all the persons who filed the writ petition along with the appellant had later withdrawn from the writ petition and thereafter the respondent-

Management paid the salaries on par with the Government employees. Since the appellants are insisting upon enforcement of their right through the

judicial process, they need and seek the protection of law. We are of the view that the State has obligation to provide facilities and opportunities to

the people to avail of the right to education. The private institutions cater to the needs of the educational opportunities. The teacher duly appointed

to a post in the private institution also is entitled to seek enforcement of the orders issued by the Government. The question is as to which forum

one should approach. The High Court has held that the remedy is available under the Industrial Disputes Act. When an element of public interest is

created and the institution is catering to that element, the teacher, the arm of the institution is also entitled to avail of the remedy provided under

Article 226; the jurisdiction part is very wide. It would be different position, if the remedy is a private law remedy. So, they cannot be denied the

same benefit which is available to others. Accordingly, we hold that the writ petition is maintainable. They are entitled to equal pay so as to be on

par with Government employees under Article 39(d) of the Constitution....

In addition to the fact that the doctrine of ""equal pay for equal work"" would entitle the petitioner to claim parity in scales of pay with government

pay scales, the statutory rules, notified in G.O.Ms. No. 29 dated 03.02.1987, also confers on him a legal right to do so.

The Division Bench of this Court in Y. Sidda Reddy Vs. Government of Andhra Pradesh and Others, observed:

... From an examination of the judgment s of the Supreme Court, the settled position of law with regard to the grant-in-aid is that the State is bound

to render financial assistance only to those private educational institutions where education is imparted to children upto the age of 14 years. If the

State decides to extend some financial assistance to private educational institutions imparting education to children above 14 years, the State has

the discretion to decide to what extent such financial assistance would be rendered so long as the State does not discriminate between the private

educational institutions falling in the same class. The decision of the State to extend some financial assistance to any educational institutions

imparting education to children above 14 years does not relieve the management of such private educational institutions of its obligations to pay the

appropriate salary and other benefits which are either agreed between the management and the employee or imposed upon the management by

law....

As held by the Division bench in Y. Sidda Reddy 2006(1) ALT 354, the mere fact that the State has not extended aid to the post in which the

petitioner is working, as a lecturer in Sanskrit in the 3rd respondent college, would not relieve the 3rd respondent of its obligation to pay him the

appropriate salary, and other benefits, imposed upon them by law and since, in the present case, such an obligation, has been imposed on the 3rd

respondent by the statutory rules, notified in G.O.Ms. No. 29 dated 08.02.1987, and a corresponding legal right is conferred on the petitioner, he

would be entitled to the benefit of government pay scales.

17. Following the Division Bench judgment in Y. Sidda Reddy 2006(1) ALT 354, this Court in Smt. M.D. Soujanya Judgment in W.P. No.

22335 of 1996 dated 24-01-2006 held that the decision of the State, whether or not to extend financial assistance to educational institutions does

not relieve the management, of such private educational institutions, of its obligations, to pay proper salary and other benefits imposed upon them

by law. This Court also held that, since the management of the college is duty bound under Rule 7(4) of the Rules notified in G.O.Ms.No.29 dated

5.2.1987 to pay salaries to its staff as per the government scales of pay, the 1st respondent in the said writ petition must pay the applicable

government scales, in accordance with Rule 7(4) of the rules notifed under G.O.Ms.No.29 dated 05.02.1987, to the petitioners forthwith. The

appeal against the order of this Court in Smt. M.D. Soujanya Judgment of W.P. No. 22335 of 1996 dated 24-01-2006 was dismissed by the

Division Bench of this Court in S.V.V.P.V.M.C. Mahila Vidya Peeth v. Smt. M.D.Soujanya Judgment in W.A.No.930 of 2006 dated 27.9.2006.

In N. Suvarna Raju 1997(3) Supreme 433, this Court observed:

...The Govt. of Andhra Pradesh in G.O.Ms. No. 1188, Education (V2) Department dated 17.10.1981 permitted the management of the College

to start a Junior College, by upgrading the Wesley Co-educational High School, Medak from the academic year 1983-84 on the conditions

mentioned in the said G.O. One of the conditions which is relevant is as follows:

(f) The Management of the college should appoint qualified staff following the staff pattern and procedure prescribed by the Government in

G.O.Ms. No. 1023, Edn. Dept: 4.11.1976 and shall pay the staff salaries and allowances as prescribed by the Government. The management

should ensure that the representative of the Director of Higher Education must invariably be present during selection of staff by the Selection

Committee."" Pursuant to the said permission the college has been started by the management and the college is one of the recognised educational

institutions under the Education Act and has also being recognized by the Board of Intermediate Education. According to the petitioners, the

Lecturers in the said institution are not being paid the salaries which is prescribed for Lecturers in Govt. Colleges in accordance with the condition

referred to above and they are being paid a consolidated salary. According to them they are all qualified; to be appointed as Lecturers and were

the fact appointed after a selection by a committee....

It is next contended by Sri S. Venkata Reddy, learned Counsel appearing for the respondents that the same Management has been running several

Institutions on par with the Government scales but, because of this Institution. It is also stated that in case they are obliged to pay the salaries at the

Government scales, they will have no option but to close the Institution. I do not consider this to be tenable ground for not following the conditions

imposed even before the Institution was started. It is not in dispute that the Management has violated the conditions imposed while the permission

is granted to it regarding payment of salaries to the teaching staff. The statement that they have complied with the other conditions or their financial

difficulties cannot be a reason for continued violation of the conditions. It is the duty of the Educational authorities in the State entrusted with

administering the Education Act that they enforce the conditions for granting recognition or permission to establish the Educational Institutions. The

Educational authorities having jurisdiction over the area would be naturally knowing the relevant facts and circumstances. In this case, the

Management has not chosen to approach the authorities for any arrangement or modification for complying with the said conditions. While it is

necessary to have well-managed educational Institutions run by voluntary or private organizations it is equally necessary that they are made to

comply with such conditions. The private organizations have to make appropriate arrangements for complying with the conditions which are

regulatory in nature and meant to secure appropriate salaries to the teaching staff. In the circumstances there shall be a direction to the management

to pay to the petitioners the salaries in accordance with the condition (f) referred to above in the manner indicated....

Having extracted work from the petitioner, more than that of a regular lecturer, the 3rd respondent was statutorily bound to comply with the

requirements under Rule 7(4), of the rules notified in G.O.Ms. No. 29 dated 5.2.1987, and to extend to him the benefit of regular scales of pay on

par with government pay scales. The 3rd respondent''s contention of the delay and laches must also be rejected. The rule which states that stale

and belated claims shall not be entertained is a rule of practice and cannot be exalted into a rule of limitation. (Chandra Bhushan and Another Vs.

Deputy Director of Consolidation (Regional), U.P. and Others,). There is no time-limit prescribed for filing a writ petition. All that the court has to

see is whether the laches on the part of the petitioner are such as to disentitle him to the relief claimed by him. Delay in filing a Writ Petition cannot

be examined as if it was a case u/s 5 of the Limitation Act, 1963.(State of U.P. and Others Vs. Raj Bahadur Singh and Another,). The rule,

which says that the Court may not enquire into belated and stale claims, is not a rule of law but a rule of practice based on sound and proper

exercise of discretion. Each case must depend upon its own facts. It will all depend on what the breach of the fundamental right and the remedy

claimed are and how the delay arose. The principle on which the relief to the party, on the grounds of laches or delay, is denied is that the rights

which have accrued to others by reason of the delay in filing the petition should not be allowed to be disturbed unless there is a reasonable

explanation for the delay. The real test to determine delay in such cases is that the petitioner should come to the writ court before a parallel right is

created and that the lapse of time is not attributable to any laches or negligence. The test is not to physical running of time. Where the

circumstances justifying the conduct exists, the illegality which is manifest cannot be sustained on the sole ground of laches. (R.S. Deodhar v. State

of Maharastra, (1992) 2 SCC 598). After admission of the writ petition and hearing of arguments, the rule that delay may defeat the rights of a

party is relaxed and need not be applied if his case is ""positively good"". (P.B. Roy Vs. Union of India (UOI),).

In Karnataka Power Corporation Limited through its Chairman and Managing Director and Another Vs. K. Thangappan and Another, , the

Supreme Court observed:

...Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercises its discretionary powers under Article

226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or

omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to

the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in Durga Prashad

Vs. Chief Controller of Imports and Exports, . Of course the discretion has to be exercised judicially and reasonably.

What was stated in this regard by Sir Barnes Peacock in Lindsay Petroleum Co. v. Prosper Armstrong Hurd 1874) 5 PC 221 was approved by

this Court in Moon Mills Ltd. v. M.R. Meher AIR 1967 SC 1450 and Maharashtra State Road Transport Corporation Vs. Balwant Regular

Motor Service, Amravati and Others, Sir Barnes had stated:

Now, the doctrine of laches in courts of equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy

either because the party has, by his conduct done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and

neglect he has though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the

remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against

relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitation, the

validity of that defence must be tried upon principles substantially equitable. Two circumstances always important in such cases are, the length of

the delay and the nature of the acts done during the interval which might affect either party and cause a balance of justice or injustice in taking the

one course or the other, so far as it relates to the remedy....

Under Article 226 of the Constitution this Court would, normally, refuse to exercise its discretion to entertain a writ petition, on the ground of

inordinate delay or laches, when third party rights are created or if entertaining the writ petition would cause substantial injustice to the respondents.

Where a manifestly illegal action is under challenge, though belatedly, this Court, while exercising its discretion to entertain the writ petition, would

appropriately mould the relief to be granted. In the present case it is the 3rd respondent which has benefited, by the delay on the part of the

petitioner in invoking the jurisdiction of this Court, for the amount legitimately due to the petitioner, atleast from the beginning of the academic year

1992-93, is now to be paid after a long lapse of fourteen years. Laches by itself is, therefore, not a ground to disentitle relief to the petitioner

herein, and keeping in view his delay in approaching this Court, the relief to which he is entitled to can be appropriately moulded. While the

petitioner claims pay scales on par with a regular lecturer from the date of his initial appointment on 29.08.1987, keeping in view the latches on his

part, it would meet the ends of justice if he is denied his claim from 29.08.1987 till the commencement of the 1992-93 academic year, the 3rd

respondent is directed to extend to him the benefit of the minimum pay scales of a regular lecturer from the beginning of the academic year 1992-

93, as prescribed in G.O.Ms. No. 166 dated 8.6.1994, and as revised from time to time, and it were held that the amount payable to the

petitioner, from the beginning of the academic year 1992- 93 till the date of filing of the writ petition on 11.12.2000, would not necessitate

payment of interest. However, from the date on which the writ petition was filed on 11.12.2000, the petitioner shall be paid regular scales of pay

and allowances on par with government pay scales, in accordance with Rule 7(4) of the rules notified in G.O.Ms. No. 29 dated 05.02.1987, as he

was fully qualified to be appointed as a regular lecturer and has, ever since the date of his initial appointment in 1987, been discharging a heavier

work load than that prescribed even for regular lecturers. He shall also be entitled for the benefit of revision in pay scales, if any, extended

thereafter to regular lecturers. Since the action of the 3rd respondent in denying the petitioner the aforesaid benefits, under Rule 7(4) of the rules

notified in G.O.Ms. No. 29 dated 05.02.1987, is manifestly illegal and as the petitioner was not responsible for the failure of the 3rd respondent in

complying with the statutory requirements under Rule 7(4), the amount due to the petitioner, from the date of filing the writ petition on 11.02.2000

till the date of actual payment, shall carry simple interest at 8% per annum. The entire exercise in this regard, commencing with calculation of the

principal amount and interest thereupon and culminating in payment to the petitioner of the amounts due along with interest, shall be completed by

the third respondent within two months from the date of receipt of a copy of this order.

18. The writ petition is allowed with costs quantified at Rs. 5000/- payable by the 3rd respondent to the petitioner herein.