

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2015

CORAM :

THE HONOURABLE MR. JUSTICE T. RAJA

W.P.No. 2534 of 1998

and

W.P. No. 13166 of 2004 & WPMP No.17583/2006

and

W.P. No.21833 of 2004

V. Subramanian .. Petitioner in W.P.2534/1998
P. Surendra Babu .. Petitioner in W.P.13166/2004
Maqbool Hussain .. Petitioner in W.P.21833/2004

Vs.

1. The Registrar
Madras University
Chennai - 600 005. .. Respondent 1 in
WP Nos.2534/1998 & 13166/2004
2. The Registrar
Anna University
Guindy, Chennai - 600 025. ... Respondent 2 in
WP Nos.2534/1998 & 13166/2004
and WP No.21833 of 2004
3. The Registrar
College of Engineering
Anna University Campus
Chennai - 600 025. .. Respondent 1 in
WP No.21833 of 2004

PRAYER in W.P.2534/1998: This Writ Petition has been filed under Article 226 of the Constitution of India to issue an order of Writ of Mandamus, directing the 2nd respondent to permit the petitioner to continue in service until the petitioner attains the age of 60 years i.e. on 28.02.2000 and pass further orders.

PRAYER in W.P.13166/2004: This Writ Petition has been filed under Article 226 of the Constitution of India to issue an order of Writ of Certiorarified Mandamus, to call for the records of the

2nd respondent made in Memo No.12080/PR32/94 dated 28.04.2004, quash the same and direct the 2nd respondent to permit the petitioner to attain superannuation at the age of 60 years with all attendant monetary benefits and pass further orders.

PRAYER in W.P.21833/2004: This Writ Petition has been filed under Article 226 of the Constitution of India to issue an order of Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent made in Memo No.52581/PR51/92 dated 28.06.2004, quash the same and direct the 2nd respondent to permit the petitioner to attain superannuation at the age of 60 years with all attendant monetary benefits and pass further orders.

For Petitioners : Mr. S. Muthukumar
in all Wps

For Respondents : Mr. V. Govardhan for R2 in
WP No.2534/1998, 13166/2004 and
for R1 & R2 in WP No.21833/2004.

Mrs. G. Thilakavathi for R1 in
WP No.2534/1998, 13166/2004

C O M M O N O R D E R

W.P. No.2534 of 1998, has been filed by Mr.V. Subramanian against the Madras University seeking for issuance of a Writ of Mandamus, directing the 2nd respondent to permit the petitioner to continue in service until he attains the age of 60 years, namely, on 28.02.2000. The other two writ petitions have been filed seeking for an issuance of a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent made in Memo Nos. 12080/PR32/94 dated 28.04.2004 and 52581/PR51/92 dated 28.06.2004, quash the same and for a further direction to the 2nd respondent to permit them to attain superannuation at the age of 60 years with all attendant monetary benefits.

2. Learned counsel appearing for the petitioners in all the three matters would submit that Mr. V. Subramaniam, while serving as a Selection Grade Superintendent in the second respondent University as a non-teaching staff has been discriminated, violating Article 14 of the Constitution of India in the matter of fixing the date of retirement. While the teaching staff are permitted to retire on reaching the age of superannuation at 60 years, he has been directed to retire at the age of 58 years by the second respondent. Likewise the second respondent had declined to extend the services of the other two petitioners Mr.Maqbook Hussain and Mr. P. Surendra Babu beyond 58 years, vide the impugned orders. He further raised his claim on

the ratio laid down by the Hon'ble Supreme Court in the case of Osmania University vs. V.S. Muthuramgam & Ors. Reported in (1997) 10 SCC 741, wherein it is held that when the age of the teaching staff of the University has been increased to 60 years, the age of superannuation of the non-teaching staff should also be changed in a similar manner in order to bring parity in the service conditions of the salaried staff of the University. Therefore, as per the ratio laid by the Hon'ble Apex Court, the impugned proceedings issued by the second respondent intimating that he has to retire from service on reaching the age of 58 years is liable to be set aside.

3. Mrs. G. Thilakavathi, learned counsel appearing for the Madras University, placing on record the order passed by a Division Bench of this Court in W.A. No.2200 of 2010 dated 14.11.2013 in the case of All Cadre IDA Scudder Employees Union Vs. Government of Tamil Nadu submitted that the issue raised by the petitioners in all these matters is no more res integra, since G.O. Ms. No. 111, Higher Education (H1) Department dated 24.03.1999 rejecting the request of the Association of the Non-teaching staff to enhance the age of retirement to 60 years and the validity of the said Government order also has been upheld by this Court in the above order. Since the grievance of the petitioners have been answered already by this Court, it cannot be allowed to re-open the matter, she pleaded.

4. This Court find merits in the submission of the learned counsel for the respondents. A reading of the order passed by this Court in W.A. No. 2200 of 2010 dated 14.11.2013, clearly shows that the Government had issued the G.O. Ms. No. 111, Higher Education (H1) Department dated 24.03.1999, considering the recommendation of the University Grants Commission with regard to raising of the retirement age of Colleges and University Teachers to 62 years. In tune with their policy in the case of the State Government Employees, the State Government have decided not to raise the retirement age of University and College Teachers to 60 years. As the said G.O. has been upheld by this Court on the premises of fixing the age of retirement of College staff or any group of staff is the policy of the Government and nobody has got any right to challenge the said policy, this Court may not be in a position to answer the prayer in favour of these Writ Petitioners.

5. In view of the above, all the Writ Petitions fail and the same are dismissed. Consequently, the connected Miscellaneous Petition is closed. No order as to costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

avr

To

1. The Registrar
Madras University
Chennai - 600 005.
2. The Registrar
Anna University
Guindy, Chennai - 600 025.
3. The Registrar
College of Engineering
Anna University Campus
Chennai - 600 025.

3 ccs to Mr.S. Muthukumar, Advocate, Sr. 14032
1 cc to M/s. Row and Reddy, advocate, Sr. 14147

W.P.NO. 2534 of 1998
and
W.P. No. 13166 of 2004 &
WPMP No.17583/2006
and
W.P. No.21833 of 2004

SV (CO)
kk 27/4

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