

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:17.08.2016

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HON'BLE MR. JUSTICE R.MAHADEVAN

W.A.Nos.1668 of 2009 and 801 of 2010

K.Chelladurai .. Appellant in both appeals

Vs.

State of Tamil Nadu,
rep. by its Secretary to Government,
Higher Education Department,
Secretariat, Chennai-9.

.. Respondent No.1 in both appeals

The Director of Technical Education,
Chennai-25.

.. Respondent No.2 in W.A.1668/2009

The Additional Director of Technical Education,
Chennai-25.

.. Respondent No.2 in W.A.801/2010

The Principal,
Pattukottai Polytechnic College,
Pattukkottai,
Thanjavur District.

.. Respondent No.3 in both appeals

Appeals filed under Clause 15 of Letters Patent against the
order dated 24.08.2009 and 19.01.2010 in W.P.Nos. 2630 of 2003
and 6437 of 2003 respectively on the file of this Court.

For Appellant .. Mr.C.Selvarja Senior Counsel
for Mr.S.Mani

For Respondents .. Mr.R.Vijayakumar
Addl. Government Pleader for R1&R2

* * * * *

COMMON JUDGMENT

(Judgment of the Court was made by The Hon'ble Chief Justice)

The appellant was initially recruited as Instructor on
22.09.1986 in respondent No.3 Polytechnic, but was removed from

service on 08.05.1989 on the basis that his recruitment was irregular, having not been made through the employment exchange. On appeal/representation of the appellant, the Government took a compassionate view of the matter and directed his reinstatement in service without any monetary benefits during the interregnum period in terms of G.O.Ms.No.883, dated 24.09.1992. The appellant re-joined in service on 30.10.1992.

2. The intervening developments which took place were that the Government passed G.O.Ms.No.1081 dated 19.08.1989, abolishing the post of Instructor and directing upgradation of the post Instructor as Associate Lecturer with effect from 1.1.1986. This was so not implemented in case of the appellant, as the appellant was not in service at the relevant stage of time.

3. The plea of the appellant in the writ petition filed by him is that once monetary benefits alone are deprived, the appellant should be entitled to the length of service even when he was not in service and thus, the Government Order should be made applicable to the appellant for upgradation. On the other hand, the respondents have granted upgradation only post the appellant being taken back in service.

4. The learned Single Judge dismissed the writ petition while preserving the right of the appellant for pensionary benefits based on the initial date of his recruitment.

5. The further development during the pendency of the appeals is that the appellant attained the age of superannuation. Thus, now the issue pertains to fixation of pension dependant on whether the appellant should be taken as having been upgraded from the date of the Government Order or from the date of his being appointed back in service, as also the monetary claim arising from the said upgradation claim.

6. We have heard the learned counsel for parties and perused the impugned orders.

7. We can find no fault with the well reasoned orders of the learned Single Judge.

8. It may be noticed that the appellant in a sense came through the back-door, not having been recruited through the employment exchange. This was the reason that he was sent out of service. But on his appeal, a compassionate view was taken and he was re-appointed into service, but without any monetary benefits. When the reference is to monetary benefits, which will apply to all kinds of monetary benefits, whether they are by wages and other benefits payable or any amount which may be payable. Thus, the monetary benefits of upgraded post also

would fall in this category. The fact is that the appellant had not worked in the upgraded post during the relevant time, as he was not in service and thus, the benefits were given to him only on his being re-appointed in service. The pensionary benefits in so far as the length of service, have already been preserved as per the impugned order right from the initial date of his appointment.

9. In view of the aforesaid reasons, we find no reason to interfere with the impugned orders.

10. The appeals, accordingly, stand dismissed, leaving the parties to bear their own costs.

bbr

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Secretary to Government,
Higher Education Department,
Secretariat, Chennai-9.
2. The Director of Technical Education,
Chennai-25.
3. The Additional Director of Technical Education,
Chennai-25.
4. The Principal,
Pattukottai Polytechnic College,
Pattukkottai,
Thanjavur District.

+ 2 ccs to M/s.C.S.ASSOCIATES, ADVOCATE SR 46958

KR/6/9/16

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