

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2011

CORAM

THE HONOURABLE Mrs. JUSTICE R.BANUMATHI

W.P.No.16797 of 2003

V.Lawrence Gray Kumar

... Petitioner

Vs.

- 1.The Director,
Indian Institute of Technology
Madras, Chennai-36.
- 2.The Registrar/OSD,
Indian Institute of Technology
Madras, Chennai-36.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified mandamus or any other appropriate Writ, order or Direction in the nature of a Writ calling for the records relating to the impugned order issued by the 2nd Respondent in FD/WP 24107/4/2003 dated 26.5.2003 and quash the same and further direct the Respondents to place the petitioner in the UGC scale of pay which he is legally entitled to from the date of his entry into service viz., Rs.2200-4000 pari materia to Rs.700-1600 as on 01.4.1980, and to release the same with periodical revisions and attendant benefits.

For Petitioner : Mr.Godson Swaminathan
for
M/s.Issac Mohanlal

For Respondent : Mr.R.Parthiban

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O R D E R

In this Writ Petition, Petitioner seeks Writ of Certiorarified Mandamus to quash the order passed by the 2nd Respondent in FD/WP 24107/4/2003 dated 26.5.2003 and to direct the Respondents to place the Petitioner in UGC scale of pay of Rs.2200-4000 to which, he is entitled.

2. Brief facts are that Petitioner was appointed as Physical Training Instructor in Indian Institute of Technology [IIT], Madras on 19.7.1976 in the scale of pay of Rs.1400-2600 (pre-revised scale of Rs.425-800) and later confirmed in service. Case of Petitioner is that he possesses full qualification for the post and also satisfied the qualifications prescribed by the University Grants

Commission [UGC] at the time of his appointment. Further case of Petitioner is that pursuant to the recommendation of UGC bringing uniformity in the scales of pay for University and College staff, the Govt. of India and the Council of IITs adopted and implemented the UGC pay scales in all IITs/Universities/Colleges and the pay scales were accordingly revised w.e.f. 01.01.1973. There was further revision of pay scales as per UGC recommendation w.e.f. 01.1.1986. As per the Circular dated 22.07.1988 and its Appendix-II, revision of pay scales and qualifications for Physical Education Personnel are to the same effect as revised in the case of similar teachers of Universities/Colleges. The Council of IIT in its 32nd meeting held on 30.09.1993 resolved to revise the pay scales of Physical Training Instructors on par with UGC recommendations viz., from the scale of Rs.550-900 to Rs.700-1600 w.e.f. 01.4.1980 which was communicated to the 1st Respondent by Govt. of India by its Circular letter No.F.10-2/93-TD-1 dated 13.12.1993. Case of Petitioner is that the above said Circular would clearly establish the fact that Physical Training Instructors working in IITs are brought under UGC scheme of pay scales and qualifications w.e.f. 01.4.1980. According to Petitioner, he made number of representations to the Respondents requesting him to place in UGC scale of pay. By the impugned order FD/WP 24107/4/2003 dated 26.5.2003, the competent authority rejected Petitioner's claim and that he is eligible to receive the time scale of pay on his first assessment after 8/10 years of service which is challenged in this Writ Petition.

3. Respondents resisted the Petition contending that Petitioner has been appointed to the post of Physical Training Instructor in the time scale of IV CPC Rs.1400-2600 (pre-revised III CPC scale Rs.425-800) and joined the service in the Institute. When the Petitioner was appointed in IIT, he cannot quote UGC norms since they are not applicable to IIT, Madras. There is no genuine reason on the part of Petitioner to bring in UGC norms in an Institution where it is not applicable.

4. Mr.Godson Swaminathan, learned counsel for Petitioner contended that pay scale of Rs.425-800 was in existence prior to 01.4.1980 and resolution of Council of IIT in 32nd Meeting was held on 30.9.1993 revising the scale of pay on par with UGC regulations and while so, it would be untenable to say that Madras IIT is not bound by the orders and guidelines of UGC.

5. The learned counsel for Respondents submitted that Petitioner having accepted the offer of appointing him in the pay scale of IV CPC Rs.1400-2600 [pre-revised III CPC scale Rs.425-800] and joined the service in the Institute will have to abide by the terms and conditions prevailing in the Institute and Petitioner cannot dictate the terms to the Institute and cannot ask for revision of pay. Drawing Court's attention to the Circular dated 22.7.1988, learned counsel for Respondents would submit that in the case of Librarian and Physical Training Personnel, revision of pay

would be applicable only those who are in the pay scales of Rs.700-1600.

6. Petitioner mainly places reliance upon the Circular dated 22.7.1988 of Govt. of India. The said Circular provides revision of pay scales of Librarian and Physical Education Personnel. The relevant portion of the Circular reads as under:-

"4. The revised pay scales of Librarians and Physical Education Personnel are the same as are approved for teachers. The revised scales will be admissible only to those Librarians and Physical Education Personnel who have been sanctioned the scales of pay Lecturers, Readers and Professors under the 1973 revision namely Rs.700-1600, Rs.1200-1900 and Rs.1500-2500. The cases of existing Librarians and Physical Education Personnel who are on scales of pay lower than Rs.700-1600 will be considered separately after making an assessment of their existing scales of pay, the qualifications and other relevant factors obtaining in various States. The revised scales of pay now approved are not therefore, admissible on the basis of designations alone; they have to be sanctioned keeping also in mind the existing scales of pay. Since the qualifications method of recruitment and criteria for career advancement are slightly different in the case of Librarians and Physical Education Personnel, in the light of the requirements of their profession, the relevant provisions of the scheme as far as they relate to these matters are marginally different from those applicable to teachers."

7. It is seen from the above, the revised scales will be admissible only for Librarians and Physical Education Personnel in pre-revised scales of pay of Rs.700-1600; Rs.1200-1900 and Rs.1500-2500. As pointed out earlier, Petitioner was appointed in the pay scale of Rs.1400-2600 (pre-revised III CPC scale Rs.425-800) and therefore, as per the said Circular dated 22.7.1988, revision of scales will not be admissible to the Petitioner. As per the above Circular, Petitioner is not entitled to revision in the scales.

8. Main contention of Petitioner is that the Council of IIT in its 32nd meeting held on 30.9.1993 resolved to revise the pay scales of Physical Training Instructors on par with UGC recommendations i.e. from the scale of Rs.550-900 to Rs.700-1600 and the same was communicated to the 1st Respondent by Govt. of India, Ministry of Human Resources (Dept. of Education) by its Circular letter No.F.10-2/93-TD-I dated 13.12.1993. According to Petitioner even when he was appointed in 1996, he should have been appointed in the pre-revised pay scale of Rs.700-1600 w.e.f. 01.4.1980 and therefore, Petitioner is legally entitled the pay scale i.e. Rs.2200-4000 which is equivalent to the pre-revised scale of Rs.700-1600 as on 01.4.1980.

9. Contention of Petitioner is that UGC scales of pay are applicable to IITs. In this regard, learned counsel for Petitioner placed reliance upon the letter addressed by the Govt. of India, Ministry of Human Resources Development to the Secretary to University Grants Commission. IIT is governed by Acts and Statutes of Institute and orders of Council alone binds the IIT. IIT is not bound by the orders and guidelines prescribed by UGC. In an unreported Judgment in W.P.No.26484/2007 dated 17.7.2008 [M.Murugan v. The Govt. of India, Ministry of Human Resources Development, New Delhi], the learned single Judge [Justice S.Nagamuthu] took the view that IIT is not affiliated to any University which are coming under the purview of the UGC and that it is only the Board of Governors which has got the power to create rules and regulations which may provide for terms and conditions of the service of the employees. In the said case, the learned single Judge took further view that letter of Govt. of India, Ministry of Human Resources Development addressed to the Secretary, UGC informing the age of the Librarian shall be 62 years is not applicable to IITs. The above decision in W.P.No.26484/2007 was upheld by the Division Bench of this Court in W.A.No.1132 of 2008 dated 12.06.2009.

10. There is no force in the contention of Petitioner that pay scales of Physical Training Instructors was resolved to be revised to Rs.700-1600 w.e.f. 01.4.1980. From the Typed set of papers filed by the Respondents, it is seen that in 1995-1996, applications were invited for the post of "Physical Training Instructors" in the scale of IV CPC Rs.1400-2600 [pre-revised III CPC scale of Rs.425-800]. In the order of appointment of Petitioner dated 08.7.1996, it was clearly stated that his pay will be Rs.1400-40-1600-50-2300-EB-60-2600. By the letter dated 11.7.1996, Petitioner thanked IIT for offering him the post of Physical Training Instructor and he has accepted the offer as per the terms and conditions stipulated in the letter dated 08.7.1996. Having accepted the appointment in the scale of pay of Rs.1400-2600 (pre-revised III CPC scale Rs.425-800), Petitioner cannot now contend that he ought to have been accommodated in the revised scale of Rs.700-1600 to enable him to be admissible for revised scales of pay. Petitioner having been appointed in the pre-revised scale of Rs.425-800, revision of pay scales was not admissible to him.

11. Case of Petitioner is that for some other staff members revision of pay scales was extended and only to the Petitioner, the benefit was not extended. From the submissions of learned counsel for Respondents and from the averments in the counter affidavit, it is seen that the staff members to whom revision of pay scale was extended were in the pay scales of Rs.700-1600. Since Petitioner was in the scale of Rs.425-800, he was not eligible for revision of pay scale. Having accepted the appointment in the pay scale of IV CPC Rs.1400-2600 [pre-revised III CPC scale of Rs.425-800], Petitioner now cannot seek the benefit of revised pay scale. Respondents have rightly rejected the claim of Petitioner and

Petitioner has not made out any valid ground to interfere with the impugned order and the Writ Petition is liable to be dismissed.

12. In the result, the Writ Petition is dismissed. Consequently, connected M.Ps. are closed. No costs.

Sd/
Asst.Registrar

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Sub Asst.Registrar

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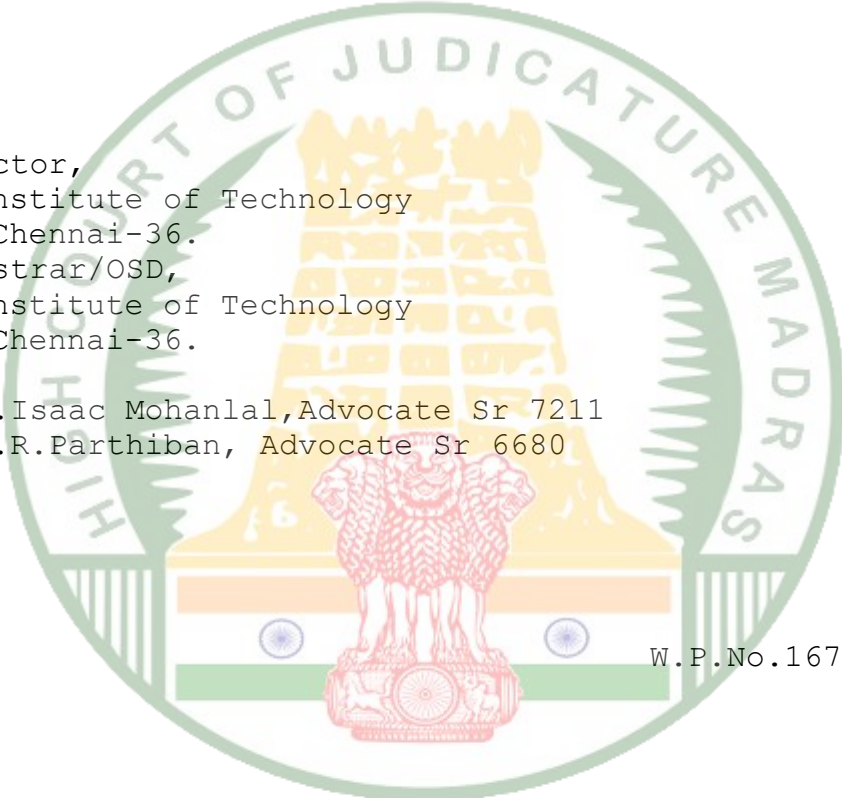
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+1cc to Mr.Isaac Mohanlal,Advocate Sr 7211

+1cc to Mr.R.Parthiban, Advocate Sr 6680

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