

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 23.01.2018

Pronounced on : 01.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN
and

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.A.No.381 of 2011

and

MP.No.1 of 2011

The University of Madras
Rep. its Registrar
Chepauk, Chennai-5.

... Appellant/ Respondent

Vs

R.Thirunavukarasu

...Respondent / Petitioner

Writ Appeal has been filed under clause 15 of Letters Patent Act against the order of this Court dated 07.07.2004 made in W.P.No.15817 of 1997.

WP.No.15817 of 1997:Pleased to issue a writ of mandamus, or any toher writ (or) writ direction, directing the respondent to promote the petitioner to the post of Assistant (Special grade) as per the Service Rules and Regulations of the university of Madras and to pass such further (or) other order as this Hon'ble court may deem fit and proper in the circumstance of the case.

For Appellant : Mr.T.Sathiyamoorthy
for Mr.Mani Sundar Gopal

For Respondent : Mr.A.M.Loganathan

J U D G M E N T

(Judgment of the Court was delivered by P.VELMURUGAN, J.)

This writ appeal has been filed against the order of this Court dated 07.07.2004 made in W.P.No.15817 of 1997.

2. The case of the respondent is that he was appointed as Junior Assistant on 06.11.1964, in the office of the appellant/ University. He was confirmed in the said post on 28.07.1969, by an official communication of the appellant dated 15.07.1994.

3. It is further stated that in the Syndicate meeting held on 15.7.1994, it was resolved that the employees who have completed ten years of total service as Junior Assistant are to be designated as Assistants (Selection Grade) in the Scale of pay of Rs.1640-60-2600-75-2900. Further, it was informed by the appellant, that the respondent would be awarded selection grade promotion after completion of ten years of service from the date of appointment as Junior Assistant, subject to the satisfactory performance of work. Since the respondent completed more than 28 years of service, he should be promoted to the post of Assistant (Special Grade) and to re-fix the scale of pay at Rs.2000-60-2300-75-3200-100-3500.

4. The respondent contended that the appellant ought to have re-designated him as Assistant (Selection Grade) after completion of ten years in the cadre of Junior Assistant. Even after completion of ten years, he was not promoted and designated as Assistant (Selection Grade) in the Scale of pay of Rs.1640-60-2600-75-2900. Therefore, the respondent made several representations seeking selection grade and the appellant failed to consider the same. Hence, the respondent approached this Court by way of filing a writ petition in WP.No.15817/1997. After considering the submissions of both sides, the learned Single Judge of this Court allowed the writ petition on 07.07.2004.

5. Aggrieved against the order passed by the learned Single Judge, the appellant/University has filed this Writ Appeal.

6. Heard Mr.T.Sathiyamoorthy, learned counsel for the appellant and Mr.A.M.Loganathan, learned counsel for the respondent.

7. It is not in dispute that the respondent was originally appointed in the appellant University as a Clerk on temporary basis with effect from 06.11.1964 and his service was regularized with effect from 28.7.1969. The Syndicate of the University passed a resolution dated 15.7.1994, designating all the Junior Assistants as Assistants by awarding selection grade on those Junior Assistants, who have completed ten years of service with scale of pay of Rs.1640-60-2600-75-2900.

8. The main contention of the University is that the resolution of the Syndicate was passed on 15.7.1994. The designation of Junior Assistants as Assistants by awarding selection grade on those Junior Assistants who have completed ten years of service with scale of pay of Rs.1640-60-2600-75-2900, came into force only on 15.7.1994. Though service of the respondent was regularized and confirmed as Lower Division Clerk with effect from 28.7.1969 and ten years of service was completed on 28.7.1979, he is not entitled to claim the

selection grade pay scale payable to the Assistants (Selection Grade) from 1979, as per the resolution of the Syndicate dated 15.7.1994. The recommendations was approved by the Syndicate on 20.5.1994 and adopted by it by means of another resolution dated 15.7.1994. As per the resolution of the Syndicate dated 20.5.1994 and 15.7.1994, the respondent can claim selection grade pay of Assistant only from 15.7.1994, as there was no selection grade category in the appellant University prior to that date. Further, none of the non-teaching members were awarded selection grade scale of pay (Rs.1640-60-2600-75-2900), who have completed ten years of service, prior to 15.7.1994.

9. As contended by the appellant none of the non-teaching members were awarded selection grade scale of pay, who have completed ten years service before 15.7.1994 as per the resolution of the Syndicate. Though, the Junior Assistants who have completed ten years of service were designated as Assistants (Selection Grade) that came into effect only from 15.7.1994. The respondent has not shown any material evidence to prove that the persons who have completed ten years of service have benefited before 15.7.1994. Since, there was no such order passed prior to 15.7.1994, the respondent is not entitled to claim the selection grade pay scale during such period. The order passed by the learned Single Judge is therefore, liable to be set aside.

10. In view of the above discussion, this Writ Appeal is allowed by setting aside the order dated 7.7.2004 in W.P.No.15817 of 1997. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy// सत्यमेव जयते

Sub Assistant Registrar

ms/tar
To
The Registrar,
The University of Madras,
Chepauk,
Chennai-5.

+1cc to Mr.Mani Sundar Gopal, Adocate Sr.No.15867
+2cc to Mr.M.Loganathan, Advocate Sr.No.16615

AD(CO)
sm:2.4.2018

W.A.No.381 of 2011
and M.P.No.1 of 2011