

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.227 of 2012

V.Lawrence Gray Kumar ... Appellant

-vs-

- 1.The Director,
Indian Institute of Technology
Madras, Chennai-600 036.
- 2.The Registrar,
Indian Institute of Technology
Madras, Chennai-600 036. Respondents

Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.16797 of 2003 dated 28.01.2011.

WP.No.16791 of 2003 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 of 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 26.05.2003 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 materia to Rs.700-1600 as on 01.04.1980, and to release the same with periodical revision and attendant benefits.

For Appellant :: Mr.P.Godson Swaminath +
For Respondents:: Mr.Karthik Mukundan for R2

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

The appellant was appointed as Physical Training Instructor in Indian Institute of Technology ("IIT" in short), Madras on 19.07.1976 in the scale of pay of Rs.1400-2600 (pre-revised

scale of Rs.425-800) and later confirmed in service. The case of the appellant is that he possessed full qualification for the post and also satisfied the qualifications prescribed by the University Grants Commission ("UGC" in short) at the time of his appointment. The further case of the appellant is that pursuant to the recommendation of UGC bringing uniformity in the scales of pay for University and College staff, the Government 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 with effect from 01.01.1973. There was further revision of pay scales as per UGC recommendations with effect from 01.01.1986. 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 the recommendations, viz., from the scale of Rs.550-900 to Rs.700-1600 with effect from 01.04.1980 which was communicated to the first respondent by Government of India by Circular dated 13.12.1993.

2.The case of the appellant is that the above said Circular would establish that Physical Training Instructors working in IITs are brought under UGC Scheme of pay scales and qualifications with effect from 01.04.1980. In this regard, the appellant made a number of representations to the respondents requesting to place him in the UGC scale of pay. The appellant's claim was rejected by the competent authority by passing an order on 26.05.2003. Hence the appellant filed a writ petition before this Court in W.P.No.16797 of 2003 and this Court by order dated 28.01.2011, rejected the writ petition. It has been observed by the learned single Judge that IIT is governed by Acts and Statutes of Institute; that the orders of Council alone binds the IIT and that the IIT is not bound by the orders and guidelines prescribed by UGC. It has also been observed that the persons to whom such benefit were extended, were in the pay scales of Rs.700-1600 and not the pay scale to which the appellant belonged, viz. Rs.425-800.

3.Challenging the order passed in the writ petition, the present appeal has been filed by the appellant / writ petitioner.

4.Amongst many grounds raised, the learned counsel for the appellant has mainly contended that the learned single Judge ought to have held that the order impugned in the writ petition is arbitrary and illegal, since it is contrary to the Circular issued by the Government of India dated 22.07.1988. He also submitted that the only condition according to the Council of IIT's 32nd Meeting dated 30.09.1993 is the 'possession of

prescribed qualification' and since the appellant had the prescribed qualifications even at the time of entry into service, he ought to have been straightaway placed in the UGC scale of Rs.2200-4000. Stating so, he prayed for quashing the order passed by the learned single Judge and to consequently issue a direction to place the appellant in the said UGC scale.

5.The learned counsel for the second respondent has submitted that the learned single Judge has considered the matter in proper perspective and dismissed the claim of the appellant and hence the same does not require any interference.

6.Heard the learned counsel on either side and perused the materials available on record.

7.As rightly observed by the learned single Judge, IIT is governed by Acts and Statutes of Institute and the orders of Council alone binds the IIT and IIT is not bound by the orders and guidelines prescribed by UGC. The said view has been fortified by the learned single Judge by referring to an unreported judgment in W.P.No.26484 of 2007 dated 17.07.2008 (M.Murugan v. The Government of India, Ministry of Human Resources Development, New Delhi), wherein it has been held 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.

8.With regard to the contention that pay scales of Physical Training Instructors were resolved to be revised to Rs.700-1600 with effect from 01.04.1980, the learned single Judge has observed that in the order of appointment of the appellant dated 08.07.1996, it was clearly stated that his pay will be Rs.1400-40-1600-50-2300-EB-60-2600 and the appellant thanked the 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 08.07.1996. Thus, having accepted the appointment in the scale of pay of Rs.1400-2600 (pre-revised III CPC scale Rs.425-800), the appellant cannot contend that he ought to have been accommodated in the revised scale of Rs.700-1600. It is also seen that the persons to whom such benefit were extended, were in the pay scales of Rs.700-1600 and not the pay scale which the appellant belonged, at the relevant point of time, viz. pre-revised III CPC scale of Rs.425-800.

9.Thus, we are of the considered view that the scale of pay of UGC is not binding on the IITs, unless and otherwise any such particular directions or directives are issued. The matter involves financial implication. Hence, unless and otherwise any

correspondence is exchanged between the IITs, UGC and the Union of India with regard to the issue of pay parity, as the matter involves financial implication, it cannot be treated that the Circular dated 22.07.1988 referred to by the appellant is applicable to him. Further, no documentary evidence has been produced by the appellant to that effect.

10.It is also pertinent to note from the counter affidavit filed by the respondents that the appellant was given first review promotion as Physical Training Instructor Grade-I in PB-2 9300-34800 with GP Rs.4600/- with effect from 19.07.2008 under Recruitment and Career Progression Scheme (RCPS) on completion of 12 years from the date of his first appointment, as approved by the Ministry of Human Resource Development in its letter dated 24.02.2006.

11.In view of the reasons stated supra, the writ appeal fails and accordingly it is dismissed. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

KM

To

1.The Director,
Indian Institute of Technology
Madras, Chennai-600 036.

2.The Registrar,
Indian Institute of Technology
Madras, Chennai-600 036.

+lcc to Mr.D.Godson Swaminath, Advocate SR.No.3086

+lcc to Mr.Karthik Mukundan, Advocate SR.No.2951

PA(CO)
GN(19/02/2018)

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