

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 06.03.2018	Delivered on 28.6.2018
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CORAM:

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

Writ Appeal No.1375 of 2016

B.Johnson Christdoss ... Appellant

.Vs.

1. The Indian Institute of Technology
Rep.by its Director,
IIT Campus,
Chennai-600 036.
- 2.The Registrar,
The Indian Institute of Technology
IIT Campus,
Chennai-600 036.
- 3.The Dean of Administration,
The Indian Institute of Technology
IIT Campus,
Chennai-600 036.
- 4.The Assistant Registrar (Administration).
The Indian Institute of Technology
IIT Campus,
Chennai-600 036.

.. Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 28.08.2012 made in W.P.No.24954 of 2008.

W.P.No.24954 of 2008:Writ Petition filed Under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus, Calling for the records of the 4th respondent viz. proceedings No. F. Admn I/A2/2007/1725 dt 12.12.07 and NO. F. Admn 1/A2/2008 /346 dt 20.03.08 and quash the same and direct the Respondents herein to grant revision of pay scale to the petitioner herein in the scale of Rs. 700-1600 from 1 4 1980 and the consequential career advancement scheme with monetary benefits.

For Appellant : Mr.P.Godson Swaminath

For Respondents : Mr.Menon

J U D G M E N T

P.VELMURUGAN, J.

The case of the appellant is that he joined the service as Physical Training Instructor in Indian Institute of Technology, Madras (IIT in short). After completing 17 years of service, during the year 1996, he was given Selection Grade in the post of Assistant Physical Education Officer. Pursuant to the recommendation of UGC to bring uniformity in the scale of pay for all 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.

2. As per the circular dated 22.07.1988, the pay scales for all the teachers and universities were revised with effect from 1.4.1980. The scale of pay of the Physical Training Instructor/ Director of Physical Education in the Colleges and Universities were fixed as Rs.700-1600. The same is also applicable to the Physical Training Institute, Assistant Director of Physical Education in IITs. The appellant made several representations to the fourth respondent to revise his pay. His last representation was also rejected on 12.12.2007. The appellant once again made a representation on 22.01.2008 to the second respondent and the same was also rejected on 20.03.2008. Therefore, he filed the writ petition before this Court.

3. The learned Single Judge after hearing the writ petition dismissed the same. Aggrieved by the order passed by the learned Single Judge, the appellant has preferred the present writ appeal.

4. The case of the respondent is that the appellant was appointed only as a Physical Training Instructor with a lower scale of pay, and therefore, his case was not considered for upgradation to the scale of pay of Rs.700-1600. A letter dated 22.07.1988 from the MHRD was addressed to the Educational Secretaries of all the States but not to IIT Madras, and therefore, no reliance can be placed on the same. The decision taken by one Institute would not be automatically applicable to an employee of another Institute. The appellant is not eligible

to the scale of pay of Rs.700-1600, as he was appointed only in the scale of pay of Rs.425-750. To attain the scale of Rs.700-1600, he should meet out the requirements imposed by the IIT Council. Since he has not satisfied the requirements imposed by the IIT Council and he was only in the scale of pay of Rs.425-750, he is not entitled for the revised scale of pay as claimed.

5. Heard the rival submissions made on either side and perused the materials available on record.

6. The main contention raised by the learned counsel for the appellant is that the appellant got the prescribed qualification at the time of recruitment, which is the main criteria for placing in the scale of pay of Rs.700-1600. Now all the Educational Institutions have followed the uniform scale of pay of Rs.700-1600. Since all the similarly placed persons are getting the salary on the revised scale pay of Rs.700-1600, the appellant is also entitled for the said scale of pay.

7. A careful perusal of the records would show that the appellant was appointed as a Physical Training Instructor in the Indian Institute of Technology, Madras in the scale of pay of Rs.425-750. Therefore, as stated by the respondents, to claim the scale of pay of Rs.700-1600, he should satisfy the requirements prescribed by the IIT council. The IIT has been established by its own statute. Therefore, any circular or guidance given by the Government for other Institutes will not automatically bind IIT Madras, which is governed by a separate statute. In this regard, the learned Single Judge has referred to the decision of this Court in W.P.No.16797 of 2003 dated 28.01.2011.

8. The petitioner in the said writ petition had preferred a writ appeal in W.A.No.227 of 2012. The Division Bench of this Court has held that the persons like the appellant, who were initially appointed in the scale of Rs.425-800 cannot be accommodated in the revised scale of Rs.700-1600. The persons to whom such benefit was extended were in the pay scale of Rs.700-1600, and not the pay scale which the appellant was placed, at the relevant point of time, viz., pre-revised III CPC scale of Rs.425-800. At this juncture, it is useful to refer the relevant portions of the said decision, which is extracted below :

"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 of 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 involved 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".

9. The learned single Judge rightly placed reliance on the judgment of the Apex Court reported in (2007) 9 SCC 278 [New Delhi Municipal Council v. Pan Singh and others] with regard to laches. The relevant paragraphs are extracted hereunder:-

"16. There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the writ petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction. (See Govt. of W.B. v. Tarun K. Roy, U.P. Jal Nigam v. Jaiwant Singh and Karnataka Power Corpn. Ltd. v. K. Thangappan).

17. Although, there is no period of limitation provided for filing a writ petition under Article 226 of the Constitution of India, ordinarily, writ petition should be filed within a reasonable time. (See Lipton India Ltd. v. Union of India and M.R. Gupta v. Union of India)".

10. In this case also, the appellant was appointed as Physical Training Instructor in the Indian Institute of Technology in the scale of pay of Rs.425-750. The circular or instructions issued by one Institute would not be applicable to another Institute, since it is a separate entity. Therefore, the appellant is not entitled for revision as a matter of course.

11. In view of the above discussion the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

KP/tar

To

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

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

3.The Dean of Administration,
The Indian Institute of Technology
IIT Campus,
Chennai-600 036.

4.The Assistant Registrar (Administration).
The Indian Institute of Technology
IIT Campus, Chennai-600 036.

+1cc to M/S.Menon, Karthik, Mukundan & Neelakantan, Advocates
Sr.42035

+1cc to M/S.P.Godson Swaminath, Advocate Sr.41768

W.A.No.1375 of 2016

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srg 12/07/2018