

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 26.06.2018****CORAM :****THE HONOURABLE MR.JUSTICE R.SURESH KUMAR****W.P(MD)No.13526 of 2018****WEB COPY**

K.Kanagaraj

... Petitioner

Vs.

1. Madurai Kamaraj University,
Rep. by its Registrar,
Palkalai Nagar,
Madurai - 625 021.

2. The Deputy Director of Local Fund Audit,
Madurai Kamaraj University,
Palkalai Nagar,
Madurai - 625 021.

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to include the half of the temporary service rendered by the petitioner i.e. from 18.11.1983 to 30.09.1991 for the purpose of calculating the petitioner's pension benefits in the light of the Syndicate Resolution dated 02.06.2012 and the Government Order in G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009 and accordingly to re-fix the pension of the petitioner with all consequential benefits within the time period stipulated by this Court.

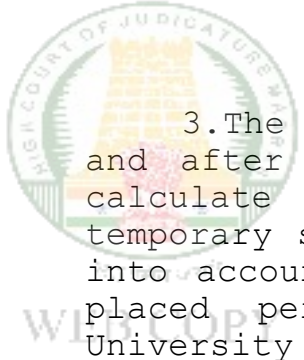
For Petitioners : Mr.T.Aswin Rajasimman

For Respondents : Mr.T.Cibi Chakkaravarthy, for R1
Mr.D.Muruganantham, AGP for R2

ORDER

The prayer sought for in this writ petition is for a writ of Mandamus, directing the respondents to include the half of the temporary service rendered by the petitioner i.e. from 18.11.1983 to 30.09.1991 for the purpose of calculating the petitioner's pension benefits in the light of the Syndicate Resolution dated 02.06.2012 and the Government Order in G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009 and accordingly to re-fix the pension of the petitioner with all consequential benefits within the time period stipulated by this Court.

2.Heard Mr.T.Aswin Rajasimman, learned counsel appearing for the petitioner and Mr.T.Cibi Chakkaravarthy, learned standing counsel for the first respondent and Mr.D.Muruganantham, learned Additional Government Pleader appearing for the second respondent.



3.The petitioner was working at the first respondent University and after having served, he retired from service. In order to calculate the pension, atleast the petitioner's past 50% of the temporary service for 7 years 3 months and 11 days has to be taken into account. In this regard, the petitioner and other similarly placed persons had been considered by the first respondent University and by proceedings dated 12.07.2012, a number of persons similarly placed like the petitioner had been considered, where the respective 50% of past temporary service made by the respective parties including the petitioner were considered and in fact recorded.

4.Pursuant to the said proceedings issued by the first respondent University dated 12.07.2012, it seems that the same had been forwarded to the second respondent, who is the authority to take into account the said 50% of the past service rendered by the petitioner on temporary basis and accordingly, revised pensionary benefit should be calculated and to be disbursed. Since the same has not been done, the petitioner had given a representation to that effect to the respondents, especially, to the second respondent on 07.06.2018 and since no consideration has been shown, the petitioner is before this Court.

5.The learned counsel appearing for the petitioner would submit that some similarly placed persons like the petitioner have already approached this Court by filing W.P.(MD) No.10686 of 2013 etc. batch, where a learned Judge of this Court, by order dated 11.09.2014 passed the following order"

"The petitioners are all retired employees of Madurai Kamaraj University.

2.According to the petitioners, they are entitled to count half of the temporary service rendered by them for the purpose of calculation of pension, along with regular service.

3.The petitioners by placing reliance on the Government Order in G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009, submitted a representation to the University requesting to give them benefits of the said Government Order. It is the grievance of the petitioners that the third respondent failed to take any follow up action. The petitioners are therefore before this Court.

4.The learned counsel for the University by placing reliance on the proceedings, dated 12.07.2012, submitted that the University has already given credit to the past service of the petitioners. They are now awaiting orders of the Audit Wing for issuing necessary consequential orders.

5.The third respondent is directed to consider



and dispose of the matter, in the light of the Memo.No.Estt-1/Admn.6/G.O.MS.No.408/2012, dated 12.07.2012. Such exercise shall be completed within a period three months from the date of receipt of a copy of this order.

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6.The writ petitions are disposed of with the above direction. No costs."

6.By relying upon the said judgment, the learned counsel appearing for the petitioner would submit that, since the petitioner also is similarly placed as 50% of his past temporary service also has been taken note of by the first respondent through the proceedings dated 12.07.2012 and the same had been forwarded to the second respondent, the second respondent shall pass necessary orders taking the said past service for the purpose of pensionary benefits and order to that effect shall be passed by the second respondent.

7.I have heard the learned standing counsel appearing for the first respondent, who would submit that on 12.07.2017 itself, the 50% past service of the petitioner i.e. 3 years 7 ears 11 days had been recorded and have been forwarded to the 2nd respondent, who has to consider the same and pass orders.

8.I have also heard the learned additional Government Pleader appearing for the second respondent, who would submit that in view of the said calculation of 50% of past services rendered by the petitioner was recorded by the first respondent University vide their proceeding dated 12.07.2012 and the same has already been forwarded to the second respondent office, the same shall be considered on merits and accordingly, necessary orders would be passed by the second respondent within a time frame.

9.Considering the said submissions made by both sides and taking into account the circumstances of the case and following the earlier order passed by this Court as referred to above in W.P.(MD) No.10686 of 2013 etc. batch, this Court is inclined to pass the following order in this writ petition:

"The second respondent is hereby directed to consider the request of the petitioner by way of representation dated 07.06.2018 by taking into account the proceedings issued by the first respondent dated 12.07.2012, whereby 50% of the temporary service rendered by the petitioner at the first respondent University had been recorded and take decision thereon on merits and in accordance with law, with regard to the decision pertaining to the pension to be payable to the petitioner by taking into account the said past service also and pass orders thereon, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. On receipt of such order



from the second respondent, the first respondent shall pass necessary orders sanctioning the revised pension to the petitioner accordingly. Such exercise shall be undertaken by the first respondent, within a period of four weeks thereafter.".

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10. With the above direction, this writ petition is disposed of.
No costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The Registrar, Madurai Kamarajar University,
Palkalai Nagar, Madurai-21.
2. The Deputy Director of Local Fund Audit,
Madurai Kamaraj University,
Palkalai Nagar,
Madurai - 625 021.

+1cc to M/s. Issac Chambers , Advocate Sr.No.70035
+1cc to Mr.T.Lajapathi Roy, Advocate Sr.No.69918
+1cc to SPL.Govt.Pleader, Sr.No.69981

ARUL

KM/PM/SAR3/19.12.2018/4P/6C

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26.06.2018