



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2018

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.19134 to 19136 of 2015
and
MP (MD) Nos.1,2 & 1,2 & 1,2 of 2015 (6 Nos)
&
WMP (MD) Nos.6340 to 6342 of 2016

WP (MD) No.19134 of 2015 :

J.R.Prabhakaran

... Petitioner

Vs.

1.The Registrar,
Madurai Kamaraj University,
Madurai-21.

2.K.Sundaramoorthi
3.K.Manoharan
4.K.L.Prabhakaran
5.S.Rajendran
6.R.Malaichamy
7.Arun Kumar
8.Uthayasurian

... Respondents

(Respondents 2 to 8 are impleaded
as per order dated 30.01.2018 in
WMP (MD) No.9222 of 2016)

WP (MD) No.19135 of 2016 :

S.Rajan

... Petitioner

Vs.

1.The Registrar,
Madurai Kamaraj University,
Madurai-21.

2.K.Sundaramoorthi
3.K.Manoharan
4.K.L.Prabhakaran
5.S.Rajendran
6.R.Malaichamy
7.Arun Kumar



8.Uthayasurian
9.A.Tamilselvi
10.S.Subramanian
11.S.Thulasiram
12.K.Bala
13.A.Pandiaraj
14.T.Chellapandian
15.P.Suguna
16.C.Ramesh
17.R.Jeyamahendran

... Respondents

(Respondents 2 to 17 are impleaded
as per order dated 30.01.2018 in
WMP (MD) No.9221 of 2016)

WP (MD) No.19136 of 2016 :

A.Manivannan

... Petitioner

Vs.

1.The Registrar,
Madurai Kamaraj University,
Madurai-21.

2.K.Sundaramoorthi
3.K.Manoharan
4.K.L.Prabhakaran
5.S.Rajendran
6.R.Malaichamy
7.Arun Kumar
8.Uthayasurian
9.A.Tamilselvi
10.S.Subramanian
11.S.Thulasiram
12.K.Bala
13.A.Pandiaraj
14.T.Chellapandian
15.P.Suguna
16.C.Ramesh

... Respondents

(Respondents 2 to 16 are impleaded
as per order dated 30.01.2018 in
WMP (MD) No.9223 of 2016)

Common Prayer: These writ petitions are filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the respondent in his proceedings in Memo No.Estt.I/Admin.2/F.P/2013 dated 27.03.2013 and quash the same and direct the respondents to fix the scale of pay in the cadre of Superintendent with effect from 29.12.2011 with all consequential benefits.



For petitioner
in all cases

: Mr.V.Panneer Selvam

For Respondents
in all cases

: Mr.T.Sakthikumaran for R1

Mr.K.Prabhakar
for newly impleaded
respondents

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COMMON ORDER

The petitioners were appointed in the first respondent university on compassionate grounds as attenders vide proceedings dated 11.01.2001. In the year 2005, the petitioners took part in a written test along with other casual labour and NMRs. Based on the marks secured in the said test, the seniority of as many as 49 persons were fixed vide memo dated 14.11.2005. The petitioners are figuring at Serial Nos.11, 24 and 37. It is admitted that the said seniority list that was finalized based on the marks, was not put to challenge in any writ proceedings. It has become final. Subsequently, the writ petitioners made representations and based on the recommendations of Justice K.Sampath Committee as well as the undertaking said to have been furnished by the writ petitioners, the petitioners were given promotion to the post of Superintendent on 29.12.2011.

2.Subsequently, vide memo dated 31.01.2013, the other 28 persons who were covered by the proceedings dated 14.11.2005 were also granted promotion as Superintendents. The respondent university fixed the pay of the Superintendents vide memo dated 27.03.2013. The petitioners are shown as Serial Nos.1, 11 and 22. In the said memo, the respective pay of the petitioners herein was fixed only from 31.01.2013. This is assailed in this writ petition.

3.This Court granted interim order of stay while admitting the writ petitions. Since the interim stay was not complied with, the petitioners filed contempt petitions also. In the meanwhile, the respondent university issued Memo No.EStt-I/Admn.1/Pay Fix/Supdt/2016 dated 01.09.2016 fixing the pay of the writ petitioners from the actual date of their promotion namely 29.12.2011 and 30.12.2011.

4.Heard the learned counsel appearing on either side including the learned counsel appearing for the impleaded respondents.

5.It is beyond dispute that the writ petitioners did not question the seniority list dated 14.11.2005, even when promotion to the post of Superintendent was given on 29.12.2011. It has been specifically mentioned therein that promotion is given to the petitioners on condition that they should accept the seniority as



informed to them vide memo dated 14.11.2005. In other words, promotions were given to the petitioners by incorporating the aforesaid condition. The petitioners did not question the incorporation of such condition in their promotion order dated 29.12.2011. Therefore, the petitioners are clearly estopped in law from challenging the same. However, there is considerable merit in the contention that the university acted illegally and arbitrarily in fixing the petitioners pay in the post of Superintendent from the subsequent date namely 31.01.2013. When the writ petitioners had admittedly joined pursuant to the promotion orders dated 29.12.2011 in the promoted post, their pay in the promoted post should also be fixed only from the said date. Therefore, the impugned order dated 27.03.2013 is quashed to that extent insofar as the petitioners are concerned. However, the petitioners are bound by the condition set out in the aforesaid order dated 29.12.2011 that the seniority as informed to them vide memo dated 14.11.2005 will hold good.

6. These writ petitions are allowed as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

+3ccs to Mr.V.Panneer Selvam, Advocate, SR.Nos.45382, 45383 and 45384

+One cc to Mr.K.Prabhakar, Advocate, SR.No.45006

+One cc to Mr.T.Saktahi Kumaran, Advocate, SR.No.45004

SKM
RL/6C/4P/CVC/SAR1/2/3/2018

W.P. (MD) No.19134 to 19136 of 2015
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