



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.02.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.5972 of 2014

and

W.M.P. (MD) .Nos.1 and 2 of 2014

A.Gunasekaran

.. Petitioner

Vs.

1.The State of Tamilnadu,
Rep. by its Secretary,
Department of Tamil Development and Culture,
Fort St.George, Chennai- 600 006.

2.Tamil University,
Rep. by its Registrar,
Vagai Valagam,
Thanjavur,
Thanjavur District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorari Mandamus, calling for the records relating to the impugned order issued by the 2nd respondent Tamil University vide Na.Ka.No.A1/9432/2013, dated 28.01.2014, quash the same and further direct the 2nd respondent University to promote the petitioner to the post of Assistant Librarian in the University from the date of passing Ph.D., Degree i.e., 18.10.2002 and consequently allow the petitioner to continue in service as Assistant Librarian in the University up to the age of superannuation of 60 years with all attendant benefits.

For Petitioner : Mr.T.Cibi Chakkaraborthy
for M/s.Issac Mohanlal

For Respondent No.1 : Mr.K.Saravanan
Government Advocate

For Respondent No.2 : Mr.M.Senthil Kumar

**ORDER**

Heard the learned counsel appearing on either side.

2. The petitioner joined services of the second respondent Tamil University as Library Assistant Grade-II on 10.08.1983. He was appointed in a regular capacity on 11.08.1985. His appointment was also duly regularised later. The petitioner was given Selection Grade as well as Special Grade on completion of 10 years and 20 years of service. In the meanwhile, his post has been re-designated as Librarian Grade-I.

3. The case of the petitioner is that the designation and nomenclature of the Library staff was not in line with UGC regulations. The matter was considered by the University Syndicate in its meeting dated 03.08.1996 which had resolved to accept the recommendations as pointed out by the Committees earlier. In terms of the resolution, according to the petitioner, he became eligible to be promoted as Assistant Librarian. The validity of the said resolution became subject matter of W.P.(MD).No.12772 of 1996 and order of status quo was passed on 09.09.1996. The writ petition itself came to be dismissed on 04.08.2003.

4. The petitioner had been repeatedly representing the authorities for promoting him to the post of Assistant Librarian as per the Syndicate resolution dated 03.08.1996. But it evoked no response. In the meanwhile, the petitioner reached the age of superannuation on 31.01.2014. By order dated 28.01.2014, the second respondent relieved the petitioner from services with effect from 31.01.2014. The same is under challenge in this writ petition.

5. The learned counsel appearing for the writ petitioner pointed out that one Thiru.K.Thirumaran, his erstwhile junior filed W.P.(MD).No.10245 of 2011 before this Court and this Court by order dated 30.04.2013 granted him relief. This Court took note of the fact that even though the resolution was passed as early as on 09.08.1996 and the writ petition questioning the said resolution came to be dismissed on 04.08.2003, there was considerable delay in invoking the jurisdiction of this Court. Therefore, this Court observed that the said Thirumaran should be given notional benefit from the date he became eligible to be promoted as Assistant Librarian and actual benefit from the date the resolution comes to be implemented in this case. The order passed by this Court was not complied with and that led to the institution of Contempt Petition No.1196 of 2013. The second respondent herein filed Review Petition in the year 2014. The said Review Petition was dismissed and suitable orders were also passed mandating compliance of the order in favour of Thiru. K.Thirumaran. In the counter affidavit filed before this Court, the second respondent has stated that no orders has been passed in favour of Thiru. K.Thirumaran. This Court is of the view that it cannot be so. When this Court has passed orders in favour of the said Thirumaran, the second respondent can not be

heard to contend to the contrary.

6. If a person, who is identically placed and who was originally junior to the petitioner has been conferred with certain benefits, it would not be appropriate to deprive the petitioner of a similar treatment. That would be a clear violation of the equality principle guaranteed under Article 14 of the Constitution of India. Again it is seen that the petitioner has been guilty of gross laches. He has approached this Court only after he was formally retired and relieved from service. But the petitioner would contend that as per UGC regulations, the age of retirement for the post of Assistant Librarian is 60 and not 58. This is because the said post is considered as a teaching post. The learned counsel appearing for the petitioner would submit that like Thiru. K.Thirumaran, the petitioner also would forego his claim for backwages and would press only for notional benefits up to 31.01.2014. His focus was more on the benefits for the subsequent two years period. This submission made by the petitioner is placed on record.

7. Since this Court is of the view that the petitioner cannot be disqualified merely because he did not move this Court like Thiru.K.Thirumaran, the order impugned in this writ petition stands quashed. The second respondent is directed to consider the representations given by the petitioner for promotion to the post of Assistant Librarian in the University and pass appropriate orders in the light of the treatment meted out to Thiru. K.Thirumaran, pursuant to the orders of this Court. In other words, the petitioner will not be treated differently. The second respondent shall pass such orders within a period of eight weeks from the date of receipt of a copy of this order. This writ petition stands allowed on these terms. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar(CS-I)

To
The Secretary to Government,
Department of Tamil Development and Culture,
State of Tamilnadu,
Fort St.George,
Chennai- 600 006.

+1CC to M/s.Isacc Chambers in SR.No.49424.
+1CC to Special Government Pleader in SR.No.49651.

PJL