



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.02.2018
CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.3040 of 2011

WEB COPY

Dr.K.V.Jeyaraj

... Petitioner

-vs-

- 1.The Union of India,
represented by the Principal Secretary,
Ministry of Human Resource Development,
New Delhi.
- 2.The University Grants Commission,
represented by the Secretary,
Bahadurshah Marg Road,
New Delhi -11.
- 3.The Government of Tamil Nadu,
represented by the Principal Secretary,
Department of Higher Education,
Secretariat, Chennai.
- 4.The Secretary,
Department of Finance,
Government of Tamil Nadu,
Secretariat,
Chennai.
- 5.The Madurai Kamaraj University,
represented by its Registrar,
Palakalai Nagar,
Madurai-21.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent No.5 to fix the payment of the Petitioner in the higher pay scale of not less than Rs.48,000/- with Academic Grade Pay of Rs.12,000/- w.e.f 1.1.2006 in accordance with Circular by the respondent No.1, dated 31.12.2008 and G.O.Ms.No.350 statement of fixation of pay of individual Appendix-IV consequently make the arrears of the payment and other consequential benefits within the time stipulated by this Court.

For Petitioner	: M/s.T.Lajapathi Roy
For Respondent-1	: M/s.S.Balakrishnan
For Respondent-2	: Mr.B.Vijay Karthikeyan
For Respondents	: Mr.R.Sethuraman
3 and 4	Spl. Government Pleader
For Respondent-5	:M/s.T.Sakthikumaran

O R D E R

The Writ Petitioner is holding the post of Professor in the fifth respondent/University and retired from service on 31.1.2018, on attaining the age of superannuation. The policy introduced by the University Grants Commission is adopted w.e.f.31.12.2008 in the Central Universities.

2.The learned counsel for the 5th respondents states as on the date of retirement of the Petitioner, the benefits accorded by the University Grants Commission was not implemented and therefore the Writ Petitioner is not eligible for the benefit as such sought for in this Writ Petition. In this regard, the eligibility of the Writ Petitioner has been narrated in the counter more specifically in Para 6,7,8,15 and 16. Those paragraphs are extracted hereunder:

6.At the outset, I submit that the letter No.I-32/2006-U-II/U.I(i) dated 31.12.2008 of the first respondent(Department of Higher Education, Ministry of Human Resource Development, Government of India) relied by the Petitioner is only a communication issued to the second respondent(UGC) conveying the scheme to revise the pay scales of teachers in the Central Universities subject to framing of regulations by the UGC and it is not an order for implementation, directly even by the Central Universities. Hence the claim made by the Petitioner who was an employee of the 5th respondent-State University, on the basis of the communication, dated 31.12.2008 of the first respondent is without any basis and untenable in law. Therefore, the Writ Petition is liable to be dismissed in limine on this score alone.

7.I submit that the said communication of the first respondent has not been addressed to the Government of Tamil Nadu or the 5th respondent/University, which is a State University and hence, the same is not directly applicable to the fifth respondent-University. Hence the claim made by the Petitioner on the basis of the said communication addressed to UGC is without any basis and misleading. Hence, the Writ Petition is liable to be dismissed in limine on this score alone.

8.I submit that in para -8, 12 and 13 of the affidavit, the Petitioner has made allegations that 'the Government order of the Government of Tamil Nadu had some omissions compared to the Circular by the Respondent No.1. But the omissions in this Government order virtually robbed the aim and purpose for which the original Circular dated 31.12.2008 was issued by the Respondent No.1''. But the Petitioner did not challenge the G.O.Ms.No.350, dated 09.09.2009 whereas the Petitioner has filed this Writ Petition with a prayer to issue of 'Writ of Mandamus' for a direction to the fifth respondent to refix the pay of the Petitioner based on the communication dated 31.12.2008 of the first



respondent and G.O.Ms.No.350, which is clear abuse of the provision of law and process of law. Hence this Writ Petition is liable to be dismissed in limine on this score alone.

15.It is pertinent to state here, that the Petitioner herein has retired from service on 31.1.2008 on superannuation on completion of 60 years of age, I.e., even before the Scheme of 'Appointment of Professor in the Higher Academic Grade Pay' was formulated and communicated in the letter dated 31.1.2008 of the first respondent to the second respondent and before the adoption of the said scheme by the third respondent-Government, in the G.O.Ms.No.350, dated 09.09.2009. Further, this scheme has no retrospective effect since it is applicable only on the appointment as Professor in Higher Academic Grade Pay. Hence the Petitioner is not eligible to pay fixation at Rs.48,000/- with Academic Grade Pay of Rs.12,000/- with effect from 01.01.2006 as claimed in this Writ Petition, since he has not been appointed as 'Professor in the Higher Academic Grade Pay' as per the above norms.

16.As for the averment made in para 12 of the affidavit, it is submitted that the provision in Clause-IIV applies only in case of 'Direct recruitment to the post of Professor' after the implementation of the Scheme of the scheme i/e., only after 1.1.2006, since the petitioner has not been directly appointed as Professor or after 1.1.2006, the Petitioner is not entitled for the benefit in Clause-IV of Appendix-I of G.O.Ms.No.350 and 9.89.2009. Further, as stated in the reply dated 3.8.2010 of PIO of the University' ie., Page No.6) of the Petitioner's typed set), the Petitioner got any fixation at Rs.47,440/- in the pay Band of Rs.37,400= Rs.67,000/- plus AGP of Rs.10,000/p Therefore there is no loss to the Petitioner and hence the averment made in this regard is liable to be rejected as devoid of merits.

3.The learned counsel for the Petitioner states that the Writ Petitioner has filed another Writ Petition in W.P.No.615 of 2018 for similar relief. However, this Court is not inclined to grant the relief as sought for in this Writ Petition and it is for the Writ Petitioner to raise all other grounds in the other Writ Petition which was filed subsequently.

4.With these observations, the Writ Petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(ADII)

/True Copy/



To

1. The Principal Secretary,
Union of India,
Ministry of Human Resource Development,
New Delhi.
2. The Secretary,
University Grants Commission,
Bahadurshah Marg Road,
New Delhi -11.
3. The Principal Secretary,
Government of Tamil Nadu,
Department of Higher Education,
Secretariat, Chennai.
4. The Secretary,
Department of Finance,
Government of Tamil Nadu,
Secretariat,
Chennai.
5. The Registrar,
Madurai Kamaraj University,
Palakalai Nagar,
Madurai-21.

+One cc to Mr.S.Balakrishnan, Advocate, SR.No.47649
+One cc to Mr.B.Vijay Karthikeyan, Advocate, SR.No.48085
+One cc to Mr.T.Sakthi Kumaran, Advocate, SR.No.47564
+One cc to The Special Government Pleader, SR.No.47857

vsn
RL/10C/4P/KK/SAR2/22/2/2018

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