

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.3746 of 2018

WMP.No.4561 of 2018

S.L.Maheswari

... Petitioner

Vs

1. The Vice Chancellor,
University of Madras,
Centenary Building,
Chepauk,
Chennai-600 009

2. The Registrar,
University of Madras,
Centenary Building,
Chepauk,
Chennai-600 005

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to settle the retirement benefits as per the sanction order issued by the respondent in No.F.8(PENSION)/T0379/2015/865 dated 01.07.2015 including pay for the month of June 2015, without prejudice to the right of petitioner in the pending writ petition in WP.No.16425 of 2015, with all consequential and other attendant benefits alongwith interest for the delayed payment, by considering the representation submitted by the petitioner dated 28.11.2017, within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.L.P.Shanmugasundaram,
Standing Counsel for RR1&2

ORDER

This writ petition has been filed seeking for issuance of a Mandamus to direct the respondents to settle the retirement benefits as per the sanction order issued by the respondent in No.F.8(PENSION)/T0379/2015/865 dated 01.07.2015 including pay

for the month of June 2015, without prejudice to the right of petitioner in the pending writ petition in WP.No.16425 of 2015, with all consequential and other attendant benefits alongwith interest for the delayed payment, by considering the representation submitted by the petitioner dated 28.11.2017, within a time frame to be fixed by this Court.

2. The case of the petitioner is that she was appointed as Lecturer in the University of Madras in the Department of Pharmacology and Environmental Toxicology on 26.03.1985. She joined the University service on 27.06.1985, in pursuant to the appointment order issued to her. Thereafter, she was promoted to the post of Reader in the year 1993 and further, promoted as Professor on 23.10.1998 based on her seniority and eligibility.

3. According to the petitioner, her actual date of birth as per the Birth Certificate issued by the Chennai Corporation is 15.02.1957. However, her date of birth has been wrongly entered in the school records while she was admitted for the first time in the school. According to the petitioner, her date of birth has been wrongly entered in the SSLC book as 15.05.1955 instead of her actual date of birth viz., 15.02.1957. According to the petitioner, previously she did not understand the adverse legal implication of date of birth in her service career but only when she was taking research work, there was an age limitation prescribed for such, the petitioner realised the implication of wrong entry of date of birth in the service Register and hence, had applied for her Birth Certificate to the Corporation of Madras in the year 1982. After obtaining the same, the petitioner has been using only the Birth Certificate as a proof of her age since the same is an authenticated proof of her age.

4. According to the petitioner, despite production of her Birth Certificate, her date of birth was entered in the service records as 15.05.1955. In this regard, a representation has been made by the petitioner to the second respondent in the year 1987 through proper channel seeking for alteration of her date of birth based on the Birth Certificate issued to her by the Corporation of Chennai. According to the petitioner, the application for alteration of her date of birth has been submitted in accordance with the provisions of University Statute.

5. The University officials however, informed the petitioner to approach the School Education Department to alter her date of birth as entered in the SSLC Book. Therefore, the petitioner was constrained to approach the school authority.

6. At this, the School Education Department intimated the petitioner that SSLC book cannot be altered or amended once it is issued. In the said circumstances, the petitioner once again went back to the University and sought for alteration of her date of birth. Thereafter, the petitioner was issued with proceedings dated 04.09.2012, to clarify as to how mistake has been crept in in SSLC book and the Birth Certificate. The same was also clarified by the petitioner in her representation dated 14.09.2012. Thereafter, a further representation was made on 24.09.2014. It appears that the Registrar, University of Madras/the second respondent herein ordered to conduct enquiry in regard to the claim of the petitioner for alteration of her date of birth. In the process, further particulars were also asked for by the University Officials and the Revenue Department. The details sought for by the Revenue Department, which is entrusted with the task of conducting enquiry has also been furnished. The Revenue Department has, in turn, directed the District Collector to conduct enquiry to ascertain the correctness of the date of birth claimed by the petitioner. The petitioner also attended the enquiry and produced all the original documents duly certified by the authority concerned.

7. While the petitioner was anticipating final orders from the respondent University, she was issued with a communication dated 29.05.2015 by stating that she was permitted to retire from service on 31.05.2015 on attaining the age of superannuation (as per the date of birth in the service record). The petitioner was however allowed to continue in service on re-employment till the end of the academic year i.e., upto 30.06.2015. Finally, her request for change of date of birth has been rejected on 02.06.2015. In the said circumstances, the petitioner has approached this Court, challenging the rejection of alteration of date of birth in W.P.No.16425 of 2015 and the same was admitted and pending before this Court.

8. In the meanwhile, since the issue in regard to the alteration of date of birth is pending final consideration before this Court, even after the retirement of the petitioner on 31.05.2015, the retirement benefits have not been settled altogether. Therefore, the petitioner was constrained to file the present writ petition seeking for Mandamus to direct the respondents to settle the retirement benefits, as per the sanction order issued by the respondents on 01.07.2015 including pay for the month of June 2015 without prejudice to her rights in the pending WP.No.16425 of 2015.

9. Today, when the matter is taken up for hearing, the learned counsel appearing for the petitioner would urge this Court to dispose of the present writ petition without prejudice

to the petitioner's rights in the other writ petition in regard to the alteration of the date of birth since the petitioner is put to extreme hardship and suffering without being sanctioned of the retirement benefits to her, though she has retired in May 2015 itself.

10. At this, the learned counsel appearing for the University would submit that the University has no objection in regard to the payment of retiral dues payable to the petitioner on the basis of her retirement dated 31.05.2015 and the same would be paid as soon as a direction is issued by this Court in the present writ petition.

11. In view of the submissions made by the learned counsel on either side and also the fact that the petitioner even otherwise is entitled to be paid her retirement dues on her retirement on 31.05.2015, this Court is of the considered opinion that there may not be any legal impediment to the University to sanction the retiral benefits of the petitioner viz., Pension, Gratuity and Commutation without prejudice to the rights of the petitioner regarding alteration of her date of birth, which is the subject matter of challenge before this Court in W.P.No.16425 of 2015.

12. Therefore, this Court is of the view that the petitioner is entitled to the relief as prayed for in this writ petition.

13. Accordingly, the writ petition is allowed and the respondents are directed to settle all the retiral benefits as per the sanctioned order issued by the respondents in No.F.8 (PENSION)/T0379/2015/865 dated 01.07.2015 including pay for the month of June 2015, without prejudice to the rights of petitioner in the pending W.P.No.16425 of 2015, with all consequential and other attendant benefits. The respondents are also directed to release all retirement dues to the petitioner as indicated above within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Vice Chancellor,
University of Madras,
Centenary Building,
Chepauk,
Chennai-600 009

2. The Registrar,
University of Madras,
Centenary Building,
Chepuak,
Chennai-600 005

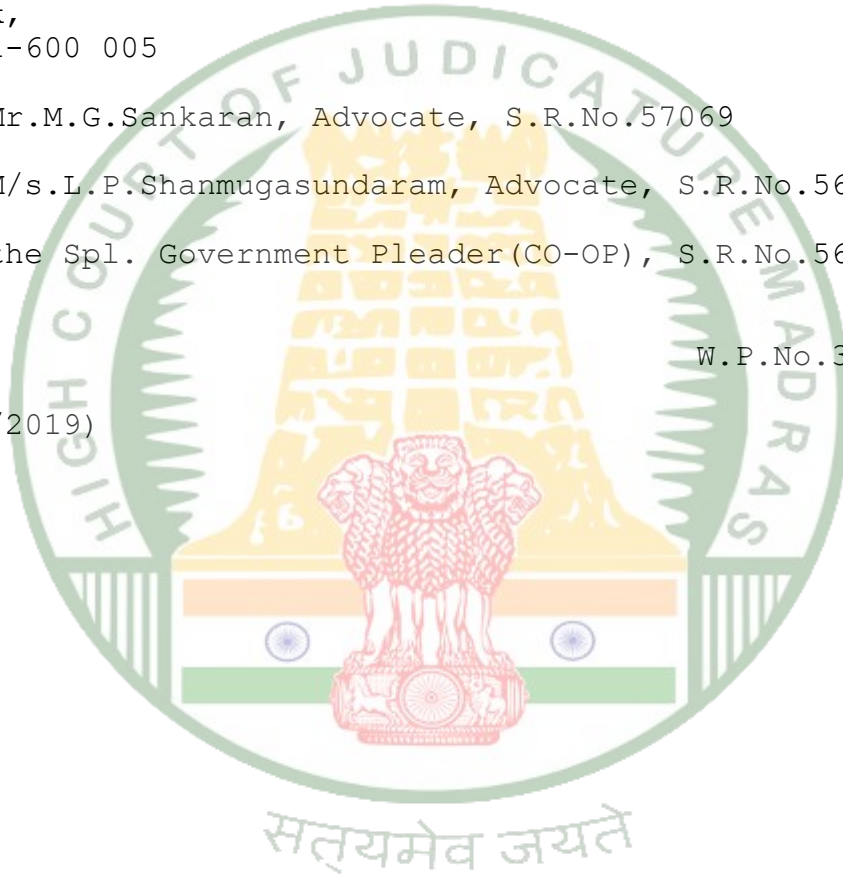
+1 cc to Mr.M.G.Sankaran, Advocate, S.R.No.57069

+1 cc to M/s.L.P.Shanmugasundaram, Advocate, S.R.No.56848

+1 cc to the Spl. Government Pleader(CO-OP), S.R.No.56866

W.P.No.3746 of 2018

SV(CO)
SSM(21/08/2019)



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