

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.9581 of 2013

Dr.L.K.Kaliyaperumal

..Petitioner

Vs

1. Union of India
rep. by Government of Puduchery
Chief Secretariat
Puducherry-605 001

2. Government of Puducherry
rep. by its Secretary
Educational Department
Puducherry-605 001

3. The Principal
Pondicherry Engineering College (PEC)
Kalapet
Puducherry-605 014

4. Kanchi Maa Munivar
Centre for Post Graduate Studies
Lawespet
Puducherry-605 008

..Respondents

Prayer:- This Writ Petition is filed, under Article 226 of Constitution of India, to issue a writ of Certiorari calling for the records on the files of the third respondent in letter No.PEC/Estt(T)/Dr.L.K.K./2013/No.710 dated 27.02.2013 and to quash the same.

[Prayer amended as per order dated 18.11.2019 in WMP.26245/2017]

For Petitioner :Mr.S.Sivashanmugam
for Mr.D.Sreenivasan

For Respondents :Mrs.N.Mala, Addl Govt.Pleader
[Puducherry]
for R1 to R4.

ORDER

The petitioner joined in the Collegiate service under Puducherry Government on 01.09.1971 as Demonstrator in Physics at Tagore Arts College.

2. The petitioner who possess all necessary qualifications and experience applied for the post of Professor of Physics in the 3rd respondent college. Non-selection of his candidature and appointing an unqualified person was challenged by the petitioner in W.P.14351 of 1999. This court by order dated 24.07.2001, quashed the illegal appointment and consequently, directed the 3rd respondent to appoint the petitioner.

3. Consequent to the appointment order issued by the 3rd respondent, the petitioner resigned from the 4th respondent college and joined the third respondent college as Professor on 04.04.2005.

4. The petitioner is stated to have retired from service on superannuation on 31.10.2009 and stated that he is eligible for pension as per GOI-CCS (pension) Rule 37-A dated 25.10.2007. Even though the petitioner along with a copy of representation to the respondents, sent a copy of the order of this court in W.P.No.24024 of 2013, the 3rd respondent has rejected his representation stating that the petitioner has not made any representation while he was in service for the claim of G.P.F. But the contention of the petitioner is that he is eligible for retirement benefits for the service rendered under the Government.

5. In the counter affidavit filed by respondents 1 and 2, it is stated that the petitioner applied for the post of Professor in the 3rd respondent's college at the time of his service in the Government of Union Territory of Pondicherry and based upon his claim of existence of lien only, his request for appointment was considered and subsequently, lien was revoked by Government of Union Territory of Pondicherry, vide proceedings dated 10.07.2008. Further, it is stated that for the services rendered by the petitioner in the capacity of Selection Grade Lecturer in the Department of Education, Government of Pondicherry, he was given pension on pro-rata basis and he is receiving the said pension even today. While the offer of appointment dated 28.03.2015 was made, it contained a clear clause relating to the conditions of the appointment. One among which is "he will be covered under Contributory Provident Fund Scheme of the College". This will indicate that the payment of pension by the Engineering College does not arise at all, in as much as

accepting one of the terms of the offer of appointment as the petitioner has joined the service in the Pondicherry Engineering College. The respondents 1 and 2 thus stated that the claim of the petitioner to club together his service in the 3rd and 4th respondent college is unsustainable.

6. In the counter affidavit, it is further pointed out that the petitioner is covered under the CPF scheme as per the condition of the offer of appointment and accordingly, the remittance of outside recoveries (including GPF subscription) to Directorate of Accounts and Treasuries (DAT), Government of Puducherry was stopped.

7. According to the learned counsel for respondents, at the time of offer of appointment by 4th respondent - Pondicherry Engineering College, the terms and conditions governing the Pondicherry Engineering College were given and accepted by him whereby the contributory Provident Fund alone applied to him as it was in operation in Pondicherry Engineering College and hence, he was estopped from raising any plea for considering to be covered by G.P.F.Scheme.

8. In view of the above stand taken by the respondents and for the reason that the petitioner has accepted the terms and conditions of the appointment order of the 4th respondent college, there is no legal semblance for the petitioner to claim for clubbing together the service rendered under both 3rd and 4th respondents for pensionary benefits.

9. The Writ Petition sans merit for the reasons narrated above. Accordingly, the writ petition is dismissed. No costs.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

nvsri
To

1.The Government of Puduchery
Chief Secretariat
Puducherry-605 001

2.The Secretary
Government of Puducherry
Educational Department
Puducherry-605 001

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3.The Principal
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+1 CC to Mrs.N.Mala, Advocate sr 96338
+1 CC to The Public Prosecutor, sr 95676.

WP.No.9581 of 2013

EV(CO)
SP(22/01/2020)



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