

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :11.12.2019
CORAM
THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR
W.P.No. 6434 of 2016

C. Sivasankar

..Petitioner

Vs

The Registrar
University of Madras,
Chepauk, Chennai-600005.

.. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of certiorarified Mandamus calling for the records connected with the order passed by the respondent in Official Communication No.F1(C)/Estt./Tech/2015/1426 Dated 31.07.2015 and quash the same as illegal and further direct the Respondent to fix the pay in petitioner post of Photographer in the time Scale of Pay of Rs.1640 - 60 -2600 - 75 - 2900 with retrospective effect from the date of petitioner entry into service on 01.12.1997 as per the recommendations of the Anomalies Committee and Syndicate and to sanction the monetary benefits by fixing the corresponding pay revisions in accordance with the subsequent Pay Commission recommendations.

For Petitioner : Mrs. T. Aananthi
For Respondent : Mr. Mani Sundara Gopal

O R D E R

The prayer sought for in the Writ Petition is for issuance of Writ of certiorarified Mandamus calling for the records connected with the order passed by the respondent in Official Communication No.F1(C)/Estt./Tech/2015/1426 Dated 31.07.2015 and quash the same as illegal and further direct the Respondent to fix the pay in petitioner post of Photographer in the time Scale of Pay of Rs.1640 - 60 -2600 - 75 - 2900 with retrospective effect from the date of petitioner entry into service on 01.12.1997 as per the recommendations of the Anomalies Committee and Syndicate and to sanction the monetary benefits by fixing the corresponding pay revisions in accordance with the subsequent Pay Commission recommendations.

2. The case of the petitioner is that the petitioner had joined in the respondent university as Photographer (Technician Grade-III), Department of Ancient History & Archeology in the year 1997. During the year 1990, an Anomalies Committee was constituted by the Syndicate by its resolution dated 17.02.1990 to rectify the pay anomalies of the employees and to revise the scale of pay in commensuration with other government employees. The Anomalies Committee in Part-II of its report recommended pay revision for the various categories of posts groups under the head 'Technical Assistants' under fitment table 34.

3. Further, in the Syndicate Meeting held on 20.07.1991 recommended to treat the category of Draughtsman-cum-Photographer on par with Technical Assistants and also recommended to fix the scale of pay of Rs.1640 -2900 for the post of Draughtsman-cum-Photographer. In spite of recommendations of Pay Anomalies Committee and Syndicate Meeting, the respondent university has fixed a lower scale of pay of Rs.1100-25-1150-30-1660 though the requisite qualification for the appointment to the post of photographer was fixed similar to the post of Technical Assistant. The petitioner has made several representations to the respondent to fix the revised time scale of pay as extended to the similarly placed employees of the respondent University, the same was rejected on 31.07.2015. Challenging the same, the present writ petition is filed.

4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the documents available on records.

5. According to the learned counsel for the petitioner, the petitioner made representation to the respondent to consider for revision of his time scale of pay at Rs.1640-2900, as applicable to the Graduate Photographer, but the respondent failed to consider his representation. However, his time scale of pay came to be revised in the subsequent pay commission at Rs.1100-25-1150-30-1660 instead of 5500-175-9000. During the year 2007, he made further representation pointing out the discrepancy and disparity in fixing the scale of pay for his post. The respondent by its official communication dated 18.12.2007 has informed that the Syndicate Meeting held on 07.12.2007 resolved that his request for awarding of graduate scale of pay from the date of joining service is not feasible of compliance. However, no reasons were assigned for rejecting his request.

6. On the basis of representation dated 04.04.2013 from the Madras University Staff Association to remove the pay disparity

that arose between the Administrative Staff and Technical Staff due to implementation of G.O. Ms.No. 581 and 582, the Syndicate at its meeting held on 27.08.2013 approved the minutes of the Establishment Committee of the respondent University. Accordingly, the petitioner was awarded Grade I in the cadre of Photographer w.e.f. 01.12.2012 and fixed at Rs.11940 +4600 (Grade Pay) w.e.f. 01.12.2012 in the time scale of pay of Rs. 9300-34800 +4600 (Grade Pay). It was also informed that the cadre of Photographer -Technician Grade I has been re-designated as 'Assistant Technical Officer' as per the Syndicate Resolution Dated 10.07.2000. However, it is the contention of the petitioner that his request to award the graduate pay scale in the pre-revised scale of Rs.1640/- from the date of his appointment was remained un resolved due to non consideration of his request, which resulted in the pay disparity between the similarly placed employees.

7. The petitioner has made another representation dated 22.06.2015 narrating the difference in time scale of pay between him and his junior and requested to fix the correct and appropriate time scale of pay of Rs.1640-60-2600-75-2900, retrospectively from the date of joining into service. The said request was rejected by the respondent vide communication dated 31.07.2015. Challenging the same, the present writ petition is filed.

8. Per contra, the learned counsel for the respondent would submit that the petitioner without challenging the rejecting order issued by the respondent vide official communication in F1 (B)/Estt//Tech/2007/1839, dated 18.12.2007, has preferred this writ petition for the same grievance. Therefore this writ petition is not maintainable and the same is liable to be dismissed.

9. On considering the submissions made by the both counsel and on perusal of records, it is seen that the petitioner has made representation during the year 2007 pointing out the discrepancy and disparity in fixing the scale of pay for his post. The said representation was rejected by the respondent vide communication in No.F1(B)/Estt/Tech/2007/1839, dated 18.12.2007 by informing that the Syndicate at its meeting held on 07.12.2007 resolved that his request for award of graduate scale of pay from the date of joining service is not feasible to compliance. Subsequently, the as per the implementation of the G.O.Ms. 581 and 582 and the minutes of the Syndicate meeting dated 27.08.2013, disparity between the Administrative and Technical Staff has been removed and the petitioner was awarded Grade I in the cadre of Photographer w.e.f 01.12.2012 and his pay was also revised. Though it is the contention of the

petitioner that his request to award the graduate pay scale in the pre-revised scale of Rs.1640/- from the date of his appointment, as rightly pointed out by learned counsel for the respondent, this writ petition is not maintainable since, the petitioner without challenging the earlier communication dated 18.12.2007 either before the competent authority or before this Court in the present writ petition, has made several representations to the respondent for the same grievance.

10. In view of the above, this Court is not inclined to consider the claim made by the petitioner as there is no merit in the writ petition and the same is liable to be dismissed.

11. In the result, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Registrar
University of Madras,
Chepauk, Chennai-600005

+1cc to Mr. Mani Sundara Gopal, Advocate sr.103712

W.P.No. 6434 of 2016

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