

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 25.10.2019

Pronounced on : 07.11.2019

CORAM

THE HONOURABLE Mr. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE Mr. JUSTICE N.SESHASAYEE

W.A.No.3496 of 2019
and CMP.Nos.22410 & 22414 of 2019

S.Rajendiran Appellant/ Petitioner

-Vs-

- 1.The Secretary to Government
State of Tamil Nadu
Higher Education Department
Secretariat, Chennai - 600 009.
- 2.The Director of College Education
Directorate of College Education
EVK Sampath Building
DPI Campus, College Road
Nungambakkam, Chennai - 600 034.
- 3.The Registrar
Thiruvallur University
Serkadu, Vellore
Vellore District.
- 4.The Secretary
Jawahar Science College
Block - 14, Neyveli
Cuddalore District - 607 803.

5.The General Secretary
Jawahar Education Society
Block-17, Neyveli
Cuddalore District - 607 801.

... Respondents / Respondents

Prayer :- Writ Appeal filed under Section 15 of the Letters Patent Act, to set aside the order passed by the High Court in W.P.No.29497/2016 dated 25.07.2019 and allow the said writ petition.

WP.29497/2016:

PRAYER: Calling for the records related to the orders dated 12.08.2016 passed by the 4th respondent in Lr.No.JSC/Sec..Ret.Age limit/2015-16/17, Lr.No.JSC/ Sec/Qtrs./2016-17/18 quash the same was illegal and unsustainable and further direct the 4th respondent to reinstate the petitioner as Lecturer Selection Grade in the department of Mathematics under the 4th respondent college and to pay the arrears salary for a period of 4 months from the date of reliving the petitioner from the employment and also future salary to the petitioner every month, pending disposal of the above Writ Petition.

For Appellant : Mr.K.Venkataramani, Senior Counsel
for Mr.P.Paramasivadoss

For Respondents : Mr.K.Karthikeyan
Government Pleader [R1]

JUDGMENT

[Order of the Court was made by N.SESHASAYEE, J.]

The appellant herein was formerly a lecturer in the fourth respondent College, in the Department of Mathematics. He joined service on 18.5.1993, and after serving the College for 23 years, he was intimated by the fourth respondent Vide its communication dated 22.01.2016 that he would be superannuating on 30.4.2016, on his completion of 58 years, and was relieved on that day.

2. According to the petitioner, as per G.O.Ms.No.325 Higher Education (H1) Department, dated 18.8.2003, the age of retirement of Principals and Teachers in self-financing colleges

is 62 years, and hence, he ought not to have been relieved from his services on he completing 58 years. It was his further contention that the fourth respondent-College was governed by the Tamil Nadu Private College [Regulation] Act, 1976 and Rules thereunder, and one of the conditions of affiliation to the University is that " No teacher shall be appointed or shall be continued in service, who has attained the age of superannuation as may be prescribed by the Tamil Nadu Government". This apart, the fifth respondent, the Jawahar Education Society, which runs the 4th respondent College, also runs a Matriculation & CBSE Schools, where the teachers' age of superannuation is 62 years, and hence, seeks parity in retirement age, and since he was denied employment beyond 58 years, he has approached this Court in W.P.No.29497 of 2016, to quash the proceedings of the fourth respondent, that rejected his claim of age of superannuation at 62 years, and for a direction to the fourth respondent to reinstate him as Lecturer Selection Grade in the Department of Mathematics, and also pay him the arrear salary and other consequential monetary benefits.

3. The said writ petition was opposed by the respondent-College. Refuting and denying the petitioner's right to continue in employment beyond 58 years, it was alleged that the aforesaid G.O.Ms.No.325 Higher Education (H1) Department, dated 18.8.2003, was issued in tune with the communication from the University Grants Commission dated 09.3.2002, which to the effect that no retired teachers after the age of 62 years shall be appointed on any statutory or even non-statutory position in Universities/Colleges. Hence, it has no relevance to the petitioner's claim for an extended service of employment.

4. The learned Single Judge has held that the petitioner cannot demand any extension of service as a matter of right and dismissed the petition, and this is now in challenge in this appeal.

5. Heard the learned counsel for the appellant and perused the typed set of papers. The appellant attempts a life-line for his claim of extended employment beyond 62 years, as in Para 16.1.0 of UGC Notification on Revision of Pay Scales, Minimum Qualifications for Appointment of Teachers in Universities & Colleges and Other Measures for the Maintenance of Standards, 1998 and G.O.Ms.No.325 Higher Education (H1) Department, dated 18.8.2003.

6.1 The aforesaid UGC notification reads as :
" Teachers will retire at the age of 62. However, it is open to a University or a College to re-employ a

superannuated teacher according to the existing guidelines framed by the UGC up to the age of 65 years".

However, in March 2002, the University Grants Commission has resolved that "no retired teachers after the age of 62 years be appointed on any statutory or even non-statutory position, in Universities /Colleges".

6.2 This is followed by a resolution of the Syndicate of Madras University dated 07.8.2002, which finds reference in the communication of the Registrar of University of Madras dated 15.09.2003, which is made available in the typed set of papers. This is followed by G.O.Ms.No.325 Higher Education (H1) Department, dated 18.8.2003. This G.O refers both to the communication from the UGC dated 09.3.2002 and the resolution of the Syndicate of Madras University dated 07.08.2002. The operative portion of the G.O. reads as :

" 4. The Government have examined the request of the Registrar, Madras University in detail and decided to implement the University Grants Commission guidelines. Accordingly, the Government direct that no retired teachers after the age of 62 years be appointed in any statutory or even non-statutory position in Universities/Colleges.".

The appellant has pivoted his entire claim for employment beyond 58 years only on this Government Order. He had admitted that the fourth respondent College where he worked was governed by Tamil Nadu Private College [Regulation] Act, 1976 and Rules.

7.1 Turning to G.O.Ms.No.325 Higher Education (H1) Department, dated 18.8.2003, per se, it has only provided the outer age limit for the superannuated teachers for being employed in any statutory or even non-statutory position in Universities/Colleges. Nowhere does it even remotely refer to the possibility of extending the age of retirement beyond 58 years. It is surprising that the appellant should pretend innocence as if he could not understand the uncomplicated meaning of the G.O., in question and impose on it, a meaning which the G.O., does not accommodate.

7.2 In essence, this Court concur with the findings of the learned Single Judge and does not find any merit in this appeal.

8. It is also brought to the notice of the Court that even after superannuation, the appellant continue to occupy the official quarters given to him in the pretext of the litigation. On attaining the age of superannuation, by his sheer misconception

in G.O.Ms.No.325 Higher Education (H1) Department, dated 18.8.2003, he has only managed to help himself with an extended stay in the official quarters beyond the date of his retirement. He has to now vacate it.

9. In conclusion, the appeal is dismissed, and the fourth respondent is directed to settle the benefits to which the appellant is entitled to, after deducting such amount as would represent the rental for the official quarters where the appellant has been unauthorisedly occupying. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

- 1.The Secretary to Government
State of Tamil Nadu
Higher Education Department
Secretariat, Chennai - 600 009.
- 2.The Director of College Education
Directorate of College Education
EVK Sampath Building
DPI Campus, College Road
Nungambakkam, Chennai - 600 034.
- 3.The Registrar
Thiruvallur University
Serkadu, Vellore
Vellore District.

+1cc to Government Pleader SR.NO. 93362

W.A.No.3496 of 2019

ln(co)
nr 12/12/2019