

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 11.03.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN**W.P(MD)No.398 of 2019**

S.Ananthan

... Petitioner

Vs.

1.Madurai Kamaraj University,
Rep. by its Registrar,
Madurai.

2.The Deputy Director,
Local Fund Audit Section,
Madurai Kamaraj University,
Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the respondents to consider the petitioner's representation, dated 17.05.2018 and thereby to include the half of the temporary service rendered by the petitioner ie., from 04.10.1975 to 28.11.1980 for the purpose of calculating the petitioner's pension benefits on the basis of the proceedings of the first respondent made in Memo No.Esstt-1a/Admin.6/G.O.Ms.No.408/2012, dated 12.07.2012 and re-fix the petitioner's pension with all consequential benefits within the time stipulated by this Court.

For Petitioner : Mr.D.Sadiq Raja

For Respondents : Mr.K.Raatheesh Kumar

ORDER

This writ petition has been filed seeking issuance of a writ of Mandamus, to direct the respondents to consider the petitioner's representation, dated 17.05.2018 and thereby to include the half of the temporary service rendered by the petitioner ie., from 04.10.1975 to 28.11.1980 for the purpose of calculating the petitioner's pension benefits on the basis of the proceedings of the first respondent, dated 12.07.2012 and to re-fix the petitioner's pension with all consequential benefits within the time stipulated by this Court.



3. The case of the petitioner is that he was appointed as clerk in the Madurai University Central Co-operative Stores Limited, by proceedings, dated 04.10.1975 and he worked in the said Society for about 5 years 1 month 27 days. Subsequently, the first respondent absorbed the petitioner as Clerk in the University, vide proceedings, dated 28.11.1980 and he retired from service on 30.11.2008, on reaching the age of superannuation. While so, the Government vide G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009 stipulated that half of the past services of the employees, who were absorbed into the regular scale pay of pay prior to 01.04.2003, shall be taken into account for the pensionary benefits. Subsequently, the first respondent, vide proceedings dated 12.07.2012, issued list of eligible persons and he was one among them. Since the respondents have not re-fixed his pension, the petitioner sent a representation to the second respondent, who in turn, by proceedings, dated 03.05.2018 informed that he will proceed further only after receipt of proposal from the first respondent. Hence, the petitioner made a representation to the first respondent on 17.05.2018 in this regard. Since the same has not been considered so far, the petitioner has filed the present Writ Petition.

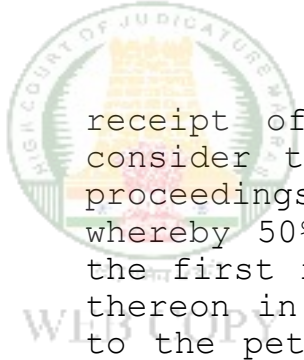
4. The learned counsel appearing for the petitioner would submit that similarly placed person like the petitioner has already approached this Court by filing W.P(MD)No.13526 of 2018, wherein, this Court by order, dated 26.06.2018 passed the following order:-

"9. Considering the said submissions made by both sides and taking into account the circumstances of the case and following the earlier order passed by this Court as referred to above in W.P(MD)No.10686 of 2013 etc., batch, this Court is inclined to pass the following order in this Writ Petition:

"The second respondent is hereby directed to consider the request of the petitioner by way of representation, dated 07.06.2018 by taking into account the proceedings issued by the first respondent, dated 12.07.2012, whereby 50% of the temporary service rendered by the petitioner at the first respondent University had been recorded and take decision thereon on merits and in accordance with law, with regard to the decision pertaining to the pension to be payable to the petitioner by taking into account the said past service also and pass orders thereon, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. On receipt of such order from the second respondent, the first respondent shall pass necessary orders sanctioning the revised pension to the petitioner accordingly. Such exercise shall be undertaken by the first respondent, within a period of four weeks thereafter."

<https://hcservices.ecourts.gov.in/hcservices/>

5. Following the same, this Court directs the first respondent to send the proposal to the second respondent forthwith and on



receipt of such proposal, the second respondent is directed to consider the claim of the petitioner by taking into account the proceedings issued by the first respondent, dated 12.07.2012, whereby 50% of the temporary service rendered by the petitioner at the first respondent University had been recorded and take decision thereon in accordance with law, with regard to the pension payable to the petitioner and pass orders and communicate the same to the first respondent within a period of four weeks from the date of receipt of a copy of this order. On receipt of such an order from the second respondent, the first respondent shall pass necessary orders sanctioning the revised pension to the petitioner accordingly. Such an exercise shall be undertaken by the first respondent, within a period of four weeks thereafter.

6. With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (Cr1.Side)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Registrar, Madurai Kamaraj University,
Madurai.

2. The Deputy Director,
Local Fund Audit Section,
Madurai Kamaraj University,
Madurai.

+1 CC to M/s.D.SADIQ RAJA, Advocate in SR-53123

W.P (MD) No.398 of 2019
11.03.2019

ps

PK/06.05.2019 : 3P/4C