



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.24319 of 2016

and

W.M.P. (MD) No.17565 of 2016

S.K.Gopal

... Petitioner

-Vs-

1.The Registrar,
Gandhigram Rural Institute Deemed University,
Gandhigram-624 302, Dindigul District.

2.The Chairman,
University Grants Commission,
Bahadur Shah Zafar Marg,
New Delhi-110 002.

... Respondents

(R2 is impleaded vide Court order dated 13.03.2019 in W.M.P. (MD) No.4731 of 2019)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to sanction full pension, commutation, gratuity, earned leave encashment, provident fund contribution (employer and employee) along with interest at 12% per annum from 30.09.2015 viz., the date of retirement.

For Petitioner : Mr.V.Vijay Shankar

For R1 : Mr.Ma.P.Thangavel

For R2 : Mr.B.Vijaykarthikeyan

ORDER

This Writ Petition is filed for a direction to direct the respondents to sanction full pension, commutation, gratuity, earned leave encashment, provident fund contribution (employer and employee) along with interest at 12% per annum from 30.09.2015 viz., the date of retirement.

2.According to the petitioner, he joined as Lecturer in the Faculty of Agriculture in the year 1976 in the Gandhigram Rural Institute, Gandhigram / first respondent university. Subsequently,



in the year 1989, the petitioner was selected for appointment as Chief Training Organizer (hereinafter referred to as 'the CTO') in the Krishi Vigyan Kendra (hereinafter referred to as 'the KVK'), a project under the control of GRI viz., the first respondent University. After due process of selection, the petitioner was appointed as CTO of the KVK. The petitioner was given appointment in March, 1990 as CTO and it was stated that his appointment is for the period of three years, subsequently, the first respondent, by the order dated 05.06.1997, has allowed the petitioner to continue in KVK project, as long as KVK existed in the first respondent university. The said KVK project is undertaken by the first respondent, inside the campus of the first respondent university. The petitioner is working in the same campus and service utilized in the KVK project is managed entirely by the first respondent university.

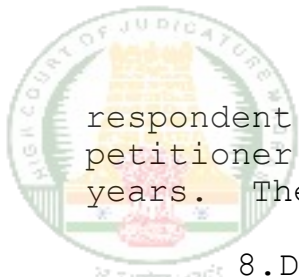
3. According to the petitioner, the first respondent university treated and recognized the KVK as one of its departments. Initially, the deputation of the petitioner was for the period of three years from 1990 and subsequently, it was extended for further period without any time limit.

4. The petitioner, in response to the advertisement issued by the first respondent, has applied for the post of Reader in the first respondent university. He was selected for the said post and the selection was approved by the Syndicate of the first respondent. The petitioner continued till 2012 in KVK project and rejoined in the service of the first respondent and retired from service on 30.09.2015, on attaining the age of superannuation, after 39 years of distinguished service in the first respondent university.

5. The first respondent, due to audit objections, has failed to sanction full pension and pay terminal benefits and taking into consideration of the period of service of the petitioner from 1976 to 1990, the first respondent has only calculated the provisional pension, whereas the petitioner is entitled for full pension and all the terminal benefits.

6. The second respondent has ratified the long deputation of the petitioner as one time measure, by the proceedings dated 13.05.2015 and 16.05.2016. In view of the same, the petitioner is entitled for full pension and all the terminal benefits and has come forward with the present Writ Petition for the above said relief.

7. The first respondent has filed counter affidavit. The learned counsel appearing on behalf of the first respondent contended that the first respondent in joint venture with Indian Council of Agricultural Research (ICAR) as a project, formulated KVK project and an agreement was entered into, stipulating that the entire control over the staff of the KVK project shall vest in the first respondent. The petitioner was appointed in KVK project by the first



respondent university. The first respondent has relieved the petitioner from the post of Lecturer with lien for a period of three years. The same was extended further without any time limit.

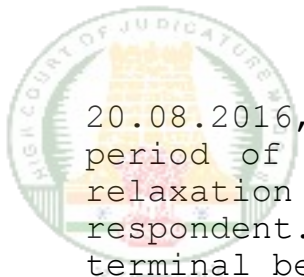
8. Due to litigation and administrative reason, the petitioner could not be reverted back to the his substantive post of Lecturer in the first respondent University and he continued as CTO. ICAR was not in favour of payment of terminal benefits and leave salary for the service rendered by the petitioner in KVK project. The Syndicate of the first respondent decided that the petitioner will continue as CTO as long as KVK exists in GRI.

9. In the year 1997, the petitioner was selected and appointed as Reader and he was permitted to continue in the first respondent university. The contribution for pension and leave salary was deducted from the petitioner's salary and also from ICAR funds from 31.03.1990 to 25.03.2012 and the same was deposited in the university's main account.

10. The petitioner was promoted as Professor under Career Advancement Scheme (CAS) of UGC, w.e.f., 12.05.2005 on the basis of the recommendations of selection committee, in its meeting held on 10.01.2012. The said promotion was approved by UGC, in its order dated 18.02.2014. The petitioner has also served as Head of the Department of Extension Education for a term of three years between 02.04.2012 to 01.04.2015 and subsequently, he retired on 30.09.2015, on attaining the age of superannuation.

11. While so, the Audit party (Comptroller and Auditor General), at the time of conducting periodical audit of the functioning of the first respondent university, remarked that granting of lien to the petitioner for indefinite period was not in order and the audit party informed the first respondent to obtain ratification from the Ministry concerned for granting excess lien to the petitioner. The first respondent university has approached the second respondent for its approval, regarding the excess lien granted to the petitioner. Pursuant to the said request, the second respondent permitted the first respondent university to treat the entire lien period of the petitioner as deputation as a special case and as one time relaxation, by the proceedings dated 20.05.2016. The said approval of the second respondent was communicated to the Office of the Principal Director of Audit (Central), Chennai and the audit party settled the issue, by accepting the approval granted by the second respondent. The second respondent has informed the audit party and the same was accepted. Before the first respondent could obtain the specific concurrence from the second respondent, the petitioner has approached this Court and prayed that suitable order may be passed to the first respondent in this regard.

12. The learned counsel appearing for the second respondent
<https://hccorrespondent.gov.in/services/> the second respondent, by the proceedings dated



20.08.2016, permitted the first respondent university to treat the period of lien, as deputation as a special case and as one time relaxation and no further orders are necessary from the second respondent. It is for the first respondent university to settle the terminal benefits to the petitioner.

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13. Heard the learned counsel appearing for the petitioner, the respective learned counsel appearing for the respondents 1 and 2 and perused the materials available on record carefully.

14. From the materials on record, it is seen that the petitioner was appointed as Lecturer in the first respondent university in the year 1976 and subsequently, was selected and appointed as CTO in KVK project under the first respondent university, which was conducted by the first respondent in joint venture with ICAR. The petitioner had lien from the year 1990 to 2012, when he worked as CTO in the KVK project. While he was working as CTO in the KVK Project, the petitioner was appointed as Reader in the first respondent and he was promoted as Professor under Career Advancement Scheme (CAS) of UGC, w.e.f., 12.05.2005 and the same was approved. While so, the audit objections were raised for continuation of the petitioner for long period, contrary to the rules. In view of the said audit objections, the first respondent did not disburse the terminal benefits and the full pension, taking into consideration the entire period of service of the petitioner from 1976 to 2015, including the services rendered by the petitioner in KVK project from March, 1990 to March, 2012. When the first respondent has approached the second respondent with regard to the audit objections, the second respondent permitted the first respondent to treat the entire period of lien period as deputation and as one time measure. The said communication was accepted by the Office of the Principal Director of Audit (Central), Chennai.

15. In addition to these facts, the first respondent has deducted the amounts from the salary of the petitioner as well as from the funds of ICAR and deposited the same in the main account of the first respondent university. When the second respondent permitted the first respondent to treat the entire lien period as deputation and the same was accepted by the Office of the Principal Director of Audit (Central), Chennai, the audit objections are no longer in existence. Further, the second respondent has informed the first respondent that terminal benefits and full pension can be granted, as per the Government Rules and orders. In view of the above, there is no necessity for the first respondent to obtain further concurrence from the second respondent to pay terminal benefits and full pension to the petitioner.

16. For the above reason, this Writ Petition stands allowed, as prayed for and the first respondent is directed to pay eligible pension together with interest at 12% to the petitioner, within a period of 4 weeks from the date of receipt of a copy of this



order. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (Writs)

Sub Assistant Registrar (CS)

Myr

To

1.The Registrar,
Gandhigram Rural Institute Deemed University,
Gandhigram-624 302, Dindigul District.

2.The Chairman,
University Grants Commission,
Bahadur Shah Zafar Marg,
New Delhi-110 002.

+1 CC to M/s.S.SRIMATHY, Advocate (SR-87415[F] dated 18/09/2019)

+1 CC to M/s.B.VIJAY KARTHIKEYAN, Advocate (SR-87621[F] dated 19/09/2019)

W.P. (MD) No.24319 of 2016
18.09.2019

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