

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2020

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.15099 of 2020

Geitha Arun
W/o Arun Wilson,
Librarian,
College of Fine Arts,
kalakshetra Foundtion
No.11/24, Tank Link Road,
Perambur, Chennai - 11.

... Petitioner

Vs

1. Union of India,
rep. by its Secretary,
Ministry of Culture,
Room No.502, Shastri bhavan,
"C"Wing, New Delhi - 110 115.

2. Rukmini Devi College of Fine Arts,
rep. by its Director,
Kalashetra Foundation,
Thiruvanmiyur,
Chennai - 41.

3. The Chairman,
Kalakshetra Foundation,
Thiruvanmiyur,
Chennai - 41.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorarified Mandamus to call for the records in F.No.A-50/1/2017-20 dated 07.08.2020 and F.No.A-48/45/2020 dated 25.08.2020 passed by the 2nd respondent and quash the same and further permit the petitioner herein to work till the end of the academic year (May, 2021) with full salary and other benefits.

For Petitioner

: Mr.K.M.Vijayan
Senior Counsel
for Mrs.R.T.Shyamala

For Respondents

: Ms.R.Janaki,
Additional Government Pleader

O R D E R

The matter is taken up through web hearing.

2. This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus to call for the records in F.No.A-50/1/2017-20 dated 07.08.2020 and F.No.A-48/45/2020 dated 25.08.2020 passed by the 2nd respondent and quash the same and further permit the petitioner herein to work till the end of the academic year (May, 2021) with full salary and other benefits.

3. The case of the petitioner is that she was appointed as a Librarian in the 2nd respondent Institution. She appears to have earlier approached this Court seeking benefits of pay and allowance on par with the teaching faculty and was successful in her attempt. According to her, she also filed another writ petition in W.P.No.33533/2016 for the revised pay scale on par with the teaching faculty and the writ petition is pending before this Court.

4. The grievance of the petitioner is that as she attained the age of superannuation, she was ordered to be retired with effect from 31.10.2020, during the middle of the academic year, when the members of the teaching faculty, as a matter of practise would have been continued until the closing of the following academic year 2020-21. Therefore, challenging the office memorandum dated 07.08.2020 and also the consequential rejection order dated 25.08.2020, retiring her from service, the petitioner is before this Court.

5. Mr.K.M.Vijayan, learned senior counsel appearing for the petitioner would submit that when the petitioner has been treated all along on par with the teaching staff in the matters of pay, allowance and status, she ought to have been extended the benefit of continuance of service till the end of the present academic year. The order of retirement of the petitioner in the middle of the academic year amounts to hostile discrimination and therefore, the impugned orders are liable to be interfered with.

6. This Court is unable to appreciate the submissions made on behalf of the learned senior counsel appearing for the petitioner. Merely because the petitioner herein had been treated on par with the teaching staff in the matter of pay and allowance, it would not automatically qualify the petitioner for claiming the benefit of continuing in employment until the end of the academic year. In fact, the rejection order dated 25.08.2020 has clearly spelt out that service till the end of the academic year is purely based on the functional requirement of the organisation and not automatic.

7. This Court is in entire agreement with the statement contained in the rejection order dated 25.08.2020 for more than one reason. First of all, the right to continue till the end of the academic year is not available to the petitioner as she was working only as a Librarian. The continuance of teaching staff till the end of the academic year and the practice followed was from the stand of point of students interest and not in furtherance of the individual's interest like the petitioner herein. The objective behind such continuance cannot lost sight of by extending the practise or concession to all type of claims indiscriminately.

8. As rightly stated by the School, when there was no functional requirement for her continuance, the concession of continuance of the teaching staff till the end of the academic year cannot be converted and sought as a right to continue till the end of the academic year. Even otherwise, the petitioner being a Librarian may have been treated on par with the teaching staff in terms of pay and allowance, but certainly, she cannot call herself a teaching staff for the purpose of the present claim. Hence, the Writ Petition stands dismissed. No costs.

sd/
ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

vsi

To

1. The Secretary,
Union of India,
Ministry of Culture,
Room No.502,
Shastri Bhavan,
"C"Wing,
New Delhi - 110 115.

सत्यमेव जयते
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PVS (CO)
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