

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.09.2020

PRONOUNCED ON : 16.10.2020

CORAM

THE HONOURABLE THIRU JUSTICE V. PARTHIBAN

W.P.No.29276 of 2019

Dr.T.S.N.Sastry,
Vice Chancellor,
Tamil Nadu Dr Ambedkar Law University,
Poompozhi,
No.5, Dr.D.G.S.Dinakaran Salai,
R.A.Puram, Chennai-600 028 ...Petitioner

Vs.

1.Pondicherry University,
rep. by the Registrar,
R.V.Nagar, Kalapet,
Puducherry- 605 014

2.Savitribai Phule Pune University,
rep. by the Registrar,
Ganeshkhind,
Pune -411 007 ...Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order No.PU/PU/ESTT(T)ET3/2019-20/098(RO) dated 20.08.2019 passed by the first respondent and quash the same and consequently direct the first respondent to shift the petitioner from CPF and include him in GPF Scheme with effect from the date of his appointment, i.e., 01.11.1988 and transfer the amount of Rs.3,02,801/- with interest and all pensionary benefits due to him as per IV Pay Commission and subsequent Pay Commissions issued from time to time to the second respondent.

For Petitioner : Mr.V.M.G.Ramakkannan

For R1 : Mr.M.Ravi

For R2 : No appearance

ORDER

The matter is taken up through web hearing.

2.The writ petition is filed with the following prayer;

" to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order No.PU/PU/ESTT(T)ET3/2019-20/098(RO) dated 20.08.2019 passed by the first respondent and quash the same and consequently direct the first respondent to shift the petitioner from CPF and include him in GPF Scheme with effect from the date of his appointment, i.e., 01.11.1988 and transfer the amount of Rs.3,02,801/- with interest and all pensionary benefits due to him as per IV Pay Commission and subsequent Pay Commissions issued from time to time to the second respondent."

3.The facts which gave raise to the filing of the present Writ Petition are hereunder:

3.1. The petitioner is presently working as Vice Chancellor of Tamil Nadu Dr. Ambedkar Law University (in short, 'Dr.Ambedkar University'), Chennai. He was originally joined as a Lecturer on 01.11.1988 in Pondicherry University, the first respondent herein, which was then the School of International Studies and he served in the University till 14.03.2006. At the time when he was appointed as Lecturer in the first respondent University, IV Central Pay Commission recommendations were implemented with effect from 01.01.1986 and the pay scales and the pensionary benefits and related matters as envisaged in the IV Pay Commission became operative covering all the Central Government employees, who were appointed on or before or after 01.01.1986.

3.2. While serving in the first respondent University, the petitioner was appointed as a Professor in Dr.Ambedkar Law University, Chennai and while accepting appointment, the petitioner had resigned from the service of the first respondent University, which was admittedly a technical resignation in order to take up new assignment in Dr.Ambedkar Law University. In Dr.Ambedkar Law University, the petitioner appears to have served for a period of three years and somewhere in 2009-2010, he got an invitation and offer to join the Savitribai Phule Pune University, the second respondent herein. The petitioner submitted his resignation from Dr. Ambedkar Law University and joined the 2nd respondent University and was eventually absorbed in the second respondent University with inclusion of his past service from the date of his original appointment on 01.11.1988.

Finally the petitioner was selected for appointment to the post of Vice Chancellor of Dr. Ambedkar Law University, Chennai and he is serving in that position as on date. It is pertinent to mention that the specific dates and the year of joining of the petitioner in the 2nd respondent University or the appointment as Vice Chancellor in the Tamil Nadu Dr. Ambedkar Law University have been conspicuously missing in the affidavit filed by the petitioner in support of the writ petition.

3.3. The inclusion of the past services of the petitioner all along from 1988, is not in dispute, since the resignations submitted by him as mentioned above, were considered as 'technical resignation' and therefore, the services rendered by him commencing from his earliest appointment from 01.11.1988 have been counted for all purposes.

3.4. The protracted grievance of the petitioner herein which has been transformed into a legal tangle is that whether the petitioner being an appointee after 01.01.1986, is to be considered as a beneficiary of General Provident Fund Scheme (hereinafter referred to as 'GPF Scheme') which was introduced w.e.f. from 01.01.1986 (IV Pay Commission) or the petitioner to be considered as a member of the Contributory Provident Fund Scheme (hereinafter referred to as 'CPF Scheme') which scheme existed, prior to 01.01.1986. The dispute as to the entitlement of the petitioner whether GPF or CPF benefits have been going back and fourth and number of correspondences have been exchanged in this regard between the first and second respondent Universities and also Dr. Ambedkar Law University, where he stated to have served as a Professor for a period of three years between 2006 and 2009. The said University is not a party in this Writ Petition.

3.5. The issue of entitlement of the petitioner reached a final point when the petitioner ultimately came to know that he was being treated all along as a member of CPF Scheme, and not entitled to claim the benefit of GPF scheme. Therefore, the petitioner had approached this Court in WP.No.182 of 2018 seeking a direction to the first respondent University to treat him as a GPF optee with effect from the date of his appointment, i.e. on 01.11.1988. This Court directed the first respondent University by its order dated 08.01.2019, to pass appropriate orders on the representation said to have been submitted by the petitioner on 06.08.2018 within a period of eight weeks from the date of receipt of a copy of that order. Although the direction of this Court was not immediately complied with, which necessitated the filing of contempt petition by the petitioner, yet ultimately, the first respondent passed an order on 20.08.2019 rejecting the claim of the petitioner, stating that he had, in fact, opted for CPF Scheme, therefore, not entitled

to seek benefits arising under GPF Scheme. According to the rejection order, the petitioner having not opted to be a GPF beneficiary, cannot after a lapse of several years seek conversion from CPF to GPF Scheme. The order further stated that the petitioner had been contributing only to CPF Scheme and he was aware of the said position. Being aggrieved by the order dated 20.08.2019, the petitioner is before this Court.

4. Mr.V.M.G.Ramakkannan, the learned counsel would submit that after implementation of the IV Pay Commission which came into effect from 01.01.1986, there was no CPF Scheme available at all for the officers who were appointed after the said date. The recommendation of the IV Pay Commission was very clear that even in respect of officers/employees, who were members of the CPF Scheme in the earlier period i.e., prior to 01.01.1986, after 01.01.1986, those officers/employees by implementation of the IV Pay Commission had been automatically brought under the GPF Scheme. However, for those employees who were originally opted for CPF Scheme before 01.01.1986 one time option was given to them to either remain with CPF scheme or switch over to GPF scheme. According to the relevant instructions, the option had to be exercised by the employee/officer before 30.09.1987. The learned counsel would rely on the Office Memorandum issued on 01.05.1987 with reference to change over of the Central Government employees from CPF to GPF Scheme. The Office Memorandum clearly stipulates that all the CPF beneficiaries who were in service on 01.01.1986 and who are still in service, will be deemed to have come over to the Pension Scheme(GPF). Unfortunately, when the position is thus, the first respondent University has denied the petitioner's entitlement to be the beneficiary of GPF Scheme and continued to hold on to its baseless position that the petitioner has all along been only CPF beneficiary.

5. The learned counsel would refer to a few documents viz., the Office Order dated 22.01.2010 in order to high light the claim of the petitioner herein. When the petitioner was appointed as a Professor in the Dr. Ambedkar Law University, Chennai in the year 2006, the accrued capitalized value of pension to the tune of Rs.8,51,417/- was transferred to the Dr.Ambedkar Law University by the 1st respondent along with his retirement Gratuity to the tune of Rs.4,26,038/- totaling Rs.12,77,455/- followed by another communication dated 15.02.2010 forwarding a Demand Draft for the above said amount mentioning the same towards pro-rata pensionary liabilities in respect of the petitioner herein. The said amount of Rs.12,77,455/- received by Dr. Ambedkar Law University was in turn transferred to the second respondent University in 2013 as by then, the petitioner was working in that University. However, it appears that in the communication between Dr.Ambedkar Law

University and the second respondent University which was dated 27.06.2013, while transferring the amount, it was mistakenly mentioned, as if the amount which was transferred was towards CPF Scheme.

6. While matter stood thus, surprisingly the first respondent University, for the first time, had taken a stand that the amount which was transferred vide communication dated 15.02.2010 to Dr. Ambedkar Law University was in fact, only with reference to the CPF contribution of the petitioner and not a capitalized value of pension arising from GPF scheme. Therefore, Dr. Ambedkar Law University was requested by the 1st respondent University by its communication dated 25.02.2014 as above to refund the amount transferred. There began the bone of contention between the petitioner on one hand and the first and the second respondents on the other. Number of letters have been exchanged between these two Universities and the first respondent, relentlessly considering the petitioner only as a CPF optee, had in fact forwarded an amount of Rs.3,02,801/- to the University of Pune, second respondent herein, by its communication dated 10.06.2010. The amount was subsequently on 30.06.2014 was refunded to the first respondent University, as the second respondent University was later given to understand that unless the petitioner herein had been given the benefit of conversion from CPF to GPF scheme, he cannot be considered as GPF optee. In the circumstances, the 2nd respondent refunded the amount i.e., Rs.03,02,801/- to the first respondent.

8. Thereafter, the petitioner was also informed by the second respondent University, by the communication dated 30.06.2014 that the petitioner may seek conversion to GPF. In the same communication, the petitioner was also favoured with a Cheque amounting to Rs.4,26,038/- towards Gratuity amount originally sent by the first respondent University, payable to the petitioner. According to the learned counsel for the petitioner, that the amount has been deposited in a separate account and it is still lying in the deposit earning interest as the petitioner has not chosen to utilize the amount in view of the pending dispute as to his pensionary status.

9. The learned counsel would submit that in order to have a clear picture as to whether CPF scheme was available at all after 01.01.1986, information was sought by the petitioner from the first respondent University under the Right to Information Act. Under several heads, various information were furnished, in response to the information sought by the petitioner and in one such detailed information, it was clearly mentioned that after 01.01.1986, the petitioner was not eligible to opt for CPF scheme at all. The communication further mentioned that the University was to rectify the anomaly

as per the Rules of the IV Pay Commission and the University was not going to have any further financial liability except to pay back the amount of Rs.3,02,801/- with interest to the second respondent University. In the communication dated 28.12.2015, the status of the petitioner was elaborately dealt with pointing towards the fact that the petitioner cannot be a CPF optee at all as the same was not available after 01.01.1986.

10. The learned counsel would submit that the stand of University that the petitioner was a CPF optee was also contrary to records and facts, as no records were filed in order to establish the fact that the petitioner had indeed opted for CPF Scheme, assuming there was one available after 1.1.1986. According to the petitioner, he had not exercised any option at all and further being an appointee after 01.01.1986, the question of exercising any option did not arise from the first date of his appointment as he became automatically a member of the GPF Scheme. Option was called for only in regard to the officers/employees who had earlier opted for CPF Scheme before 01.01.1986 and after 01.01.1986 they were required to exercise option whether they choose to remain with CPF or to switch over to the GPF scheme. The learned counsel would submit that without understanding the fundamental development after 01.01.86, the first respondent University obstinately holding on to its incorrect position as if there was a CPF Scheme available and the petitioner had contributed to the same. The premise on which, the claim of the petitioner was dealt with by the first respondent University was basically wrong and in that view of the matter, the final rejection by the first respondent University dated 20.08.2019, is liable to be interfered with. The learned counsel would also add that in the impugned order, it is stated that the petitioner had only restricted his relief that if the amount of Rs.3,02,801/- was transferred back to the second respondent University with interest, he would have no further claim for conversion. The learned counsel would submit that even that statement contained in the impugned order, is incorrect for the simple reason that the request of the petitioner for return of the said amount with interest to the second respondent University is only to facilitate the GPF Scheme to be made applicable to the petitioner. Without understanding the context in which the petitioner had requested for the return of the amount, the impugned order says as if the petitioner had given up his claim for GPF Scheme. To sum up, learned counsel would submit that the claim of the petitioner towards GPF Scheme is not a matter of dispute, since after 01.01.1986, there was no CPF Scheme available at all. He would therefore, submit that the stand taken by the first respondent University is absolutely unsustainable and liable to be interfered with.

11. Notice was ordered in the Writ Petition. Pursuant to the same, Mr.M.Ravi, learned counsel entered appearance for the respondents. A detailed counter affidavit has also been filed.

12. In the counter affidavit, it is elaborately mentioned that the petitioner was only covered under CPF Scheme all along and he had contributed only to the CPF Scheme when he was employed in the first respondent University. According to the counter affidavit, that originally when the pro-rata Pension liability to the tune of Rs.12,77,455/- including Service benefits/Gratuity was transferred to Dr.Ambedkar Law University, it was inadvertently mentioned as capitalized value of pension instead of the amount representing factually from CPF Contribution. Only on the basis of the wrong understanding, originally an amount of Rs.3,02,801/- was sent to the second respondent University and after clarification, the said amount was refunded by the second respondent University on 30.06.2014. According to the counter affidavit, that the petitioner had all along been the subscriber to the CPF Scheme.

13. More over, in the counter affidavit, it is stated that on joining the first respondent University in 1988, the petitioner subscribed only CPF Scheme, for which he exercised his option. The petitioner had also not raised this issue of GPF Scheme for several years and kept quite all along. In fact, the counter affidavit stated that no letters were received from the petitioner raising any objections for being admitted to CPF Scheme by the first respondent University. The counter further stated that the first respondent University magnanimously had accepted to pay back of Rs.3,02,801/- to the second respondent University, which is indicated in the impugned order itself and advised the petitioner to graciously accept the offer and withdraw his imaginary claim.

14. By way of reply to the counter affidavit. the petitioner has averred that at the time of when he was appointed on 01.11.1988, no option was called for from him at all. In fact, it was referred in the Office note of the first respondent which was obtained by the petitioner under RTI Act, wherein it was clearly admitted that no option was exercised by him. In any case, according to the petitioner, that exercise of option could not have arisen when the CPF Scheme itself was not in existence after 01.01.1986. According to the reply statement of the petitioner, he had been all along corresponding with the first respondent University periodically in this connection, and the question of delay would not arise at all, as if two schemes were available and option was not exercised by the petitioner all these years.

15. The first respondent University has also filed a re-joinder to the reply statement, stating that the petitioner was advised by the University to exercise his option for Pension Scheme but he opted for CPF scheme and monthly subscriptions were recovered and Annual Account Slips were also issued to him. Therefore, according to the re-joinder, the contention of the petitioner was not tenable. The re-joinder filed on behalf of the University, would further state that the CPF Scheme was continued after 01.01.1986 for some time till 2003, and 16 officials appointed on or after 01.01.1986 were placed under the Contributory Provident Fund Scheme. Therefore, the contention of the petitioner that there was no CPF Scheme available after 01.01.1986 is factually not correct.

16. Once again, another reply was filed on behalf of the petitioner by way of the additional affidavit, refuting the averments contained in the re-joinder filed by the first respondent University. In regard to the option exercised by the petitioner against the advice of the University, that averments is false and no document has been produced by the University to substantiate this fact. The petitioner reiterated that he had at no point of time, exercised his option to the non-existing CPF scheme. As regards the averments about 16 officers being placed under CPF Scheme after 01.01.1986, the statement was misleading for the simple reason that those staff though appointed in the first respondent University after 01.01.1986, in fact, had been appointed earlier in different organizations and their past service was counted and in that circumstance alone, they continued to be treated as CPF optees on the basis of their option to remain with the CPF Scheme. But in this case, the petitioner for the first time appointed on 01.11.1988 after IV Pay Commission and therefore, for him there was no option available at all. Therefore, the stand of the first respondent University in its entirety has to be brushed aside as being without any merits.

17. Learned counsel, Mr.M.Ravi, appearing for the University, has in fact, made detailed submissions in regard to the stand of the first respondent University, he represented. The learned counsel would also submit that the petitioner having opted to remain in CPF Scheme, has suddenly woken up after several years and decided to opt for GPF Scheme which cannot be permitted under the Rules. According to the learned counsel, the petitioner was fully aware of his contribution to the CPF Scheme and in order to gain the benefits of GPF Scheme, is feigning ignorance of his contribution. In any case, the claim of the petitioner for GPF benefits cannot be considered at this distance of time, as the first respondent has all along treated the petitioner as CPF optee and accepted his contributions towards CPF Scheme. The question of rolling back

the benefit for over three decades is not feasible at all in terms of the University Regulations.

18. This Court bestowed, upon itself the consideration of the elaborate submissions made both on behalf of the petitioner as well as the first respondent University and perused the entire materials and the pleadings placed on record.

19. At the outset, the professed stand taken by the first respondent University consistently all along denying the benefit of GPF Scheme to the petitioner appears to be little strange and incomprehensible, for the reason that the first respondent University has never established that it had CPF Scheme in place even after 01.01.1986 in respect of the staff who were appointed on or after 01.01.1986 freshly. No material has been produced before this Court in order to establish the factum of CPF Scheme available for any fresh appointees in the University service after 01.01.1986.

20. When the GPF Scheme was introduced after 01.01.1986, in furtherance of the IV Pay Commission recommendation, it was made clear that the said Scheme would cover all employees who were appointed after 01.01.1986 mandatorily. The question of any option for any appointee after 01.01.1986 was not available at all in the first place. As far as continuance of CPF Scheme after 01.01.1986, it was only in regard to the Central Government servants who had already opted to the then existing CPF Scheme prior to 01.01.1986 and continued in employment after 01.01.1986 and for them an option was given by issuing instructions by the Government of India either to remain with erstwhile CPF Scheme or to switch over to the GPF Scheme. The last date of option to be exercised in that regard was fixed on 30.09.1987. Therefore, the issue of option which the first respondent University is emphasizing about can never be in relation to the petitioner herein, who was admittedly, appointed for the first time in the first respondent University on 01.11.1988. The question of option by the petitioner, in these circumstances, was misnomer.

21. This Court is unable to appreciate as to how the 1st respondent University has treated the petitioner all along as CPF optee when no such scheme was available for fresh appointees post 01.01.1986 when there was mandatory stipulation that all such employees had to be covered only GPF scheme. In any event, nothing has been produced before this Court by the 1st respondent University to establish the factum of the petitioner exercising his option to be CPF optee at the time of his appointment or later assuming that CPF scheme was made available for the petitioner to opt for the scheme.

22. In any case, looking at the various letters exchanged between respondents 1 and 2 on one hand and on the other hand, Dr.Ambedkar Law University, there appeared to be lack of understanding and clarity in dealing with the claim of the petitioner. There was complete absence of proper application of mind on the part of the authority, who dealt with the issue at various points of time. This Court finds that after 01.01.1986, the first respondent University's understanding that the petitioner had exercised his option to the CPF scheme was fundamentally flawed and premised on erroneous perspective. When the basic understanding was founded on the faulty premise and continued over the years, the same resulted in transferring of amounts originally termed as pro-rata pensionary benefits and then clarified as CPF followed by deposit, return, refund etc. These transactions among the three employers of the petitioner have contributed more to the confusion already created originally due to the misconception on the part of the first respondent university in regard to the application of CPF scheme to the petitioner. In the opinion of this Court, the officials who dealt with the claim of the petitioner, have been oblivious to the issuance of the Office Memorandum dated 01.05.1987 or have been blissfully ignorant of post 01.01.1986 development. As stated above, what exactly the contribution which has been deducted from the petitioner towards CPF was not established or disclosed in specific terms and in fact no attempt has been made on behalf of the University in this regard. In these circumstances, this Court is unable to comprehend as to how administration of the University could handle the claim of this nature in a sloppy manner with downright lackadaisical approach towards discharge of its duties.

23. This Court is also unable to appreciate the stand of the University as indicated in the impugned order and also in the counter affidavit that it was a matter of University's magnanimity and lenience, the university has accepted to return Rs.3,02,801/- to the second respondent University in order to give a quietus to the entire dispute. The counter further stated that the petitioner must graciously accept the offer and give up his imaginary claim and since he has refused it by challenging the offer made in the impugned order, the offer was since revoked. Such statements made in the counter on behalf of the first respondent appear to be intimidatory reflecting confrontational disposition on the part of the first respondent, instead of being conciliatory and empathetic towards dispassionate consideration of the petitioner's grievance. When the petitioner under no circumstances can be treated as a member of the CPF scheme as his appointment being after 01.01.1986, the question of charity being shown towards the petitioner's claim did not arise at all. Such expressions

are indicative of the fact that the first respondent University unabashedly complimenting itself, as if it enjoys an exalted sanctimonious position over its staff and its decisions are gracious to be venerated than to be assailed. On the whole, this Court is of the view that the first respondent University probably has an axe to grind against the petitioner for some reason, which can be inferred from the obdurate and relentless stand taken by the first respondent against him in the matter of settlement of his pensionary benefits. This inference drawn finds further justification from the concluding paragraph contained in the impugned order which conveyed as if the petitioner herein has restricted his claim only for refund of Rs.3,02,801/-. to the second respondent University and he would in that event, give up his claim to conversion to GPF scheme. Such statement contained in the impugned order whether it is wittingly or unwittingly made, once again exposed unclear and wonky understanding of the petitioner's claim and this Court can certainly come to this conclusion that the impugned order suffered not only from non-application of mind but also from mis-application of mind, as well. In order to lend more clarity to the claim of the petitioner, it is sufficient to extract the University letter itself dated 28.12.2015 which was furnished to the petitioner under RTI Act. In the said detailed letter, the entire claim of the petitioner vis-a-vis the IV Pay Commission recommendation and the GPF scheme has been elucidated. The said letter dated 28.12.2015 is extracted hereunder:

'Estt(1)E1-3/2015-16/

Date:28.12.2015

a) Letters dated 16.11.2015 and 28.12.2015 received from Dr.T.S.N. Sastry, Professor & Co-ordinator, HRE Programme, Department of Law, University of Pune, may please be seen as FR.

b) In this connection it is submitted that Prof TSN Sastry has requested to rectify his pension scheme from CPF to GPF for the following points are placed below for consideration.

1. Dr. T.S.N. Sastry joined in this University on 01.11.1988 (FN) in the School of International Studies as Lecturer. As stated in his letter Dr.T.S.N. Sastry opted for CPF Scheme and continues be in the same till date.

2. However, as he joined after the implementation of the Fourth Pay Commission and as per the report he enclosed in Chapter 20.1 clearly speaks that all the employees who join after the implementation of the IVth Pay Commission are compulsorily required to subscribe to the General Provident Fund. Hence

even he had opted for the CPF Scheme he was not eligible to be in CPF. The University would have informed him that he was not eligible to opt for CPF and only contribute for GPF. However, all these years he had been continued without informing the provision and continued him in CPF despite he was not eligible to continue in the scheme.

3. As per the VIth Pay Commissioner as enclosed by him at Page No.287 the employees who were in service before the introduction of new pension scheme 01/01/2004 GPF was compulsory the pension scheme has no applicability clearly speaks that Dr.T.S.N. Sastry would have been informed by the University that you were not eligible to continue in CPF. However, till date no such action has been initiated by the University and continued him under the CPF and transferred the amount to the successive Universities of Tamil Nadu Dr.Ambedkar Law University, which transferred the money to his present University Savitribal Phule Pune University. The University Collected an amount of Rs.3,02,801 out of the total amount considering as he was in CPF from Pune University.

4. As he cited in the case of Dr.Veermani and other V/s. University of Delhi and another WP(C)1490/2006-1507/2006 and CM No.5186/2006, 15911/2008, 12350/2010 and CM No.2309/2011 and the other appeals, the Hon'ble Delhi High Court held in its judgement on 30.04.2014 that those who were in service even before the implementation of IVth Pay Commission and continued in CPF even after the IVth Pay Commission including retired teachers were permitted to convert to GPF. The Court while disposing the appeals in favour of the parties, relying on the observations of the Supreme Court judgment in 1982 in D.S. Nakara V. Union of India where in it was observed that grant of pension is a measure of socio-economic justice, which, provides economic security in the evening of one's life, and that, this discernible purpose should inform the interpretive process. Involved in any such scheme, and therefore, should receive liberal construction.(vide para. 18.p.32).

5. In view of the above, and more over Dr.T.S.N. Sastry joined in the University only

after the implementation of the IVth Pay Commission which stipulates all the employees need to opt only for GPF, though he might have opted without knowing rules the University would have informed him that he was not eligible for CPF.

6. Further since the amount of Rs.3,02,801/- collected from the University of Pune need to be returned with the interest accrued on it as he is eligible for GPF. The same may be informed to the Registrar Savitirbai Phule Pune University that he has been converted to GPF and CPF.

7. The same may be permitted to inform the Tamil Nadu Dr.Ambedkar Law University Chennai, that the amount 12,77,455/- already sent on 15.02.2010 was final and Dr.T.S.N.Sastry was in GPF not in CPF as stated in the letter of the University Lr.No. PU/Estt (T)/ET3/2009-10/316, dated 15.02.2010 for information and necessary at their end to do the needful to transfer their amount to Pune University.

8. In view of the above, as requested by him the University needs to rectify the anomaly and only in accordance with the rules of the Government of India, and the University is not going to have any further financial liability except to pay the amount of Rs.3,02,801/- including the interest for the period from the date of its receipt.

9. This file may be referred to the Finance & Accounts Section to offer their remarks on the matter.

10. Submitted for orders please.

AR(Estt)

SO(Estt)

24. In the light of the above letter and also the fact that the petitioner can only be a member of GPF scheme post IV Pay Commission Recommendation i.e., 01.01.1986, the contrary stand taken by the first respondent University appears to be thoroughly misplaced which cannot either be countenanced in law or on facts. In fact, the above letter has also mentioned about the return of Rs.3,02,801/- to the second respondent University in order to overcome a simply administrative anomaly. In line with the solution suggested in the above letter, the request of the petitioner for return of the amount of Rs.3,02,801/- to the second respondent for facilitating the smooth transition from the so-called CPF to GPF has been twisted by the University administration, as if the petitioner was giving up his claim towards GPF benefits and restricted his claim only for the

return of Rs.3,02,801/-. In fact, submissions were also made on the above faulty understanding on behalf of the first respondent University which only reflected the sorry state of discernment level of the University and the officials concerned. Further in the above extracted letter, it was also mentioned that the petitioner had in fact, had opted CPF scheme on his appointment, but the fact was vehemently denied by the petitioner. As stated above, not a shred of material has been produced by the first respondent to establish the said fact.

25. Lastly when this Court enquired about the gratuity amount lying in deposit in the name of the petitioner for a sum of Rs.4,26,038/- which was stated to have accrued to his credit for past services and paid by the second respondent, an affidavit was also filed by the petitioner dated 28.09.2020 giving an undertaking that the amount would be returned to the second respondent University forthwith for facilitating the grant of GPF benefits as the same has not been utilized by him all along in view of the pending dispute before this Court.

26. In the conspectus of the above discussion and narrative, this Court has no hesitation in allowing the Writ Petition. Accordingly, the Writ Petition is allowed. The impugned order No.PU/PU/ESTT(T)ET3/2019-20/098(RO) dated 20.08.2019 passed by the first respondent University is hereby set aside and the 1st respondent University shall take appropriate steps to pay back the amount of Rs.3,02,801/- to the second respondent University with reasonable interest and also process the claim of the petitioner towards GPF claim and grant the consequential benefits admissible and payable to the petitioner. The 1st and 2nd respondents are also directed to initiate appropriate steps from their respective ends and complete the process of the claim of the petitioner and in that process, if the petitioner was required to refund the gratuity amount credited to his account of Rs.4,26,038/-, the same shall also be returned by the petitioner with due interest or in alternative, in overall settlement of the pensionary benefits, such deposited amount could be adjusted without causing too much administrative inconvenience to the respondents, such option may also be adopted by the respondents when final decision is taken in compliance with the direction of this Court. The first respondent is directed to take a comprehensive decision and pass appropriate orders towards settlement of GPF benefits to the petitioner within a period of 12 weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

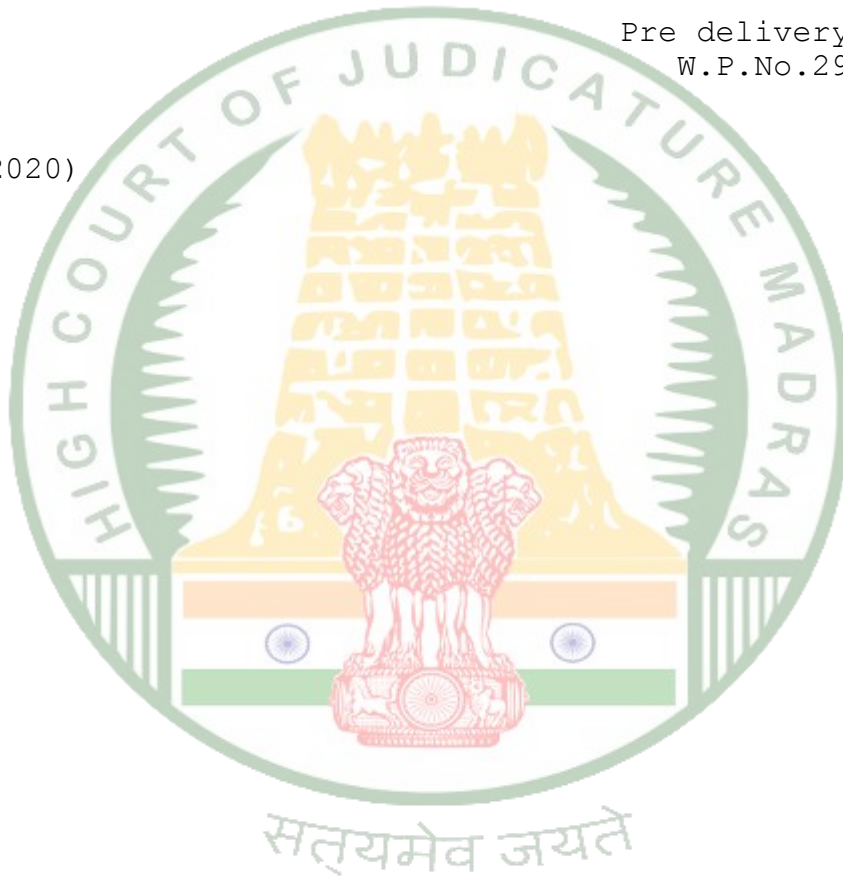
To

1.The Registrar,
Pondicherry University,
R.V.Nagar, Kalapet,
Puducherry- 605 014

2.the Registrar,
Savitribai Phule Pune University,
Ganeshkhind,
Pune -411 007

Pre delivery Order in
W.P.No.29276 of 2019

GMR(CO)
RV(10/12/2020)



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