



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P. (MD) No.2777 of 2020

P.Selvaraj

Petitioner

Vs

Madurai Kamaraj University
Represented by its Registrar
Palkalai Nagar
Madurai - 625 021

Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent to fix the petitioner's original date of appointment as casual labourer i.e., 24.12.1983 as the date of appointment and pass an order directing the respondent to pay pension to the petitioner within a time frame that may be stipulated by this Court, under the old pension scheme.

For Petitioner : Mr.M.Senthil Kumar

For Respondent : Mr.T.Sakthikumaran

Standing Counsel

O R D E R

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2. The petitioner seeks for issuance of Writ of Mandamus to fix his original date of appointment in the post of casual labour as the date of appointment and thereby determining the pension.

3. For the purpose of invoking Article 226 of Constitution of India for issuance of Mandamus, it would be mandatory on the part of the petitioner to first approach the Statutory authorities, to redress his grievance and only when such consideration is not made, the petitioner would be entitled to invoke Article 226 of Constitution of India on the ground that non-consideration of the petitioner's request may amount to dereliction of the statutory duties of the authorities.

4. In the instant case, the petitioner had actually made the representation on 05.05.2014 before the respondent herein seeking for consideration of his original date of appointment for the purpose of determining the pensionary benefits. However, the petitioner has failed to have therefore approached the authorities,



under the payment of Gratuity Act and has also obtained favourable orders in PG 21 of 2016 before the Assistant Commissioner of Labour, Madurai dated 25.10.2017, as confirmed by the Joint Commissioner of Labour, Madurai in P.G.A.No.12 of 2018 dated 31.08.2018.

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5. It is stated that the respondent had challenged the order passed by the Commissioner before this Court, which also came to be rejected on 17.12.2019 in WP(MD) No.10551 of 2016. These facts with regard to determination of the gratuity have not been brought before the respondent University. In my view, if the petitioner is granted liberty to approach the respondent stating all these facts and ventilating his grievance with a further direction to the respondent to consider such a request within a stipulated time, ends of justice would be secured.

6. The learned counsel would also rely upon the decision of this Court for the purpose of considering his original date of appointment as the crucial date for determining the pensionary benefits. It is always open to the petitioner to refer to such decisions in his representation, which is to be made before the respondent.

7. In the light of the above observations, the petitioner is granted liberty to file a fresh representation to the respondent ventilating his grievance and on receipt of the same, the respondent shall consider the same, on its own merits and pass appropriate orders in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any of its view with regard to the merits of the claim made by the petitioner.

8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

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/ /2020

Sub Assistant Registrar(CS)



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To

The Registrar,
Madurai Kamaraj University,
Palkalai Nagar,
Madurai - 625 021.

+1 CC to Mr.T.SAKTHIKUMARAN, Advocate (SR-6194[F] dated
13/02/2020)

+2 CC to Mr.M.SENTHIL KUMAR, Advocate (SR-6085[F] dated
13/02/2020)

W.P. (MD) No.2777 of 2020
13.02.2020

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