



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.08.2020**
CORAM

THE HON'BLE MR. JUSTICE R. SURESH KUMAR

W.P. (MD) Nos. 9020 and 9030 of 2020
and

W.M.P (MD) Nos. 8243 and 8254 of 2020

K. Sadasivam

... Petitioner in

W.P (MD) .No. 9020 of 2020

R. Anbazhagan

... Petitioner in

W.P (MD) .No. 9030 of 2020

-Vs-

1. The State of Tamil Nadu,
Rep., by its Secretary to Government,
Higher Education (K1) Department,
Secretariat, Chennai-9.

2. The Registrar,
Madurai Kamaraj University,
Madurai 625 021.

3. The Vice Chancellor,
Vice Chancellor's Office,
Madurai Kamaraj University,
Madurai-625 021.

... Respondents in both Petitions

Prayer in W.P (MD) .No. 9020 of 2020: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the second respondent to revise the scale of pay of the petitioner taking into consideration of his past services in the Madurai Kamaraj University College for the period between 31.05.2001 and 18.03.2010 in the light of the order passed by the second respondent vide his proceedings Memo No. Estt.-II/TI/2015 dated 18.03.2015 in respect of the similarly placed persons and disburse the same along with it's arrears within the period that may be stipulated by this Court.

Prayer in W.P (MD) .No. 9030 of 2020: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the second respondent to revise the scale of pay of the petitioner taking into consideration of his past services in the Madurai College (Autonomous) for the period between 19.06.2000 and 18.03.2010 in the light of the order passed by the second respondent vide his proceedings Memo No. Estt.-II/TI/2015 dated 18.03.2015 in



respect of the similarly placed persons and disburse the same along with it's arrears within the period that may be stipulated by this Court.

In both petitions

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For Petitioner : Mr.M.Ajmalkhan
Senior Counsel for M/s.Ajmal Associates
For Respondents : Mrs.J.Padmavathidevi
Special Government Pleader
for R1
Mr.K.Ragatheeshkumar
for M/s.Isaac Chamber for R2 & R3

COMMON ORDER

Prayer sought for herein is for a Writ of Mandamus directing the second respondent to revise the scale of pay of the petitioners taking into consideration of their past services in the Madurai Kamarajar University College for a period between 31.05.2001 and 18.03.2010, 19.06.2000 and 18.03.2010 respectively, in the light of the order passed by second respondent vide his proceedings in Memo.No.Estt.-II/TI/2015, dated 18.03.2010, in respect of similarly placed persons and disburse the same, with arrears within a time frame to be stipulated by this Court.

2.Both the petitioners are working at the respondents University and their grievance is that, their past service rendered by them in the University College should also be taken in to account for fixing the correct salary payable to the petitioners.

3.In this regard, Mr.M.Ajmalkhan, learned Senior Counsel appearing for the petitioners would submit that, similarly placed persons for the very same relief already requested the University, who in turn, having considered the request of the similarly placed persons, passed an order on 08.03.2015, where some of the Teachers have been given the benefit by fixing the correct salary by taking into account the earlier service.

4.Therefore, the learned Senior Counsel would submit that, this kind of decision fixing the salary by taking into account the earlier service have been taken in the Senate meeting which was held on 28.03.2011 and also on 11.04.2011 and a resolution also to that effect has been passed by the Syndicate of the University, pursuant to which, similarly placed persons have been given the benefit. Therefore, there can be no impediment for the University to extent the same benefits to these petitioners, who are also equally eligible to get the said benefit.



5. However, Mr. K. Ragatheeshkumar, learned Standing Counsel appearing for the respondent University would submit that, no doubt, similarly placed persons, pursuant to the University Syndicate resolution referred to above, had been given the benefits, as has been sought for by these petitioners in the year 2015 itself. Subsequently, such benefit extended by the University since has been questioned in the Audit objection, the University decided to appoint a One Man Commission headed by a retired Judge of this Court and the said Commission, after having exhaustively discussed the issue, had given a detailed report to the University and the said report is available with the University, based on which, action has to be taken by placing the said report in the next Syndicate meeting of the University and after discussion and deliberation, suitable decision would be taken in this regard.

6. However, the learned Senior Counsel appearing for the petitioners would submit that, what is the content of the report of the One Man Committee, headed by the former Judge of this Court, is not known to the petitioners. Be that as it may, since these petitioners and other similarly placed persons have rendered service to the University/ Institution or Colleges, therefore, there can be no impediment for the University to take into account those services, which have been rightly done by the University already. Therefore, if at all, any Audit objection has come to that effect, taking into account the past service rendered by the petitioners, as similarly placed persons, in order to meet the ends of justice, suitable decision can be taken by the University Syndicate, for which, the University Syndicate is empowered under the statute of the University.

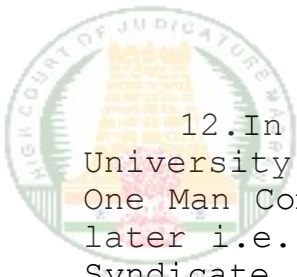
7. I have considered the said submissions made by the learned Senior Counsel appearing for the petitioners and the learned Standing Counsel appearing for the respondent University.

8. The issue is in a very narrow compass, where whether the petitioners are entitled to get benefit of refixation of pay by taking into account the earlier service rendered by them or not.

9. The issue had already been resolved by University themselves and similarly placed persons have been given such a pay fixation by order dated 18.03.2015.

10. Subsequently, it seems that Audit objection has come. Therefore, One Man Committee also was appointed, headed by a retired Judge of this Court who in turn has given a report to the University.

11. Now, the said report has to be placed before the Syndicate for discussion and deliberation and take a final decision.



12. In this regard, the learned Standing Counsel for the University would submit that, whatever be the report submitted by One Man Committee, that will be placed before the Syndicate soon or later i.e., next hearing date and once the same is placed before the Syndicate, certainly, a decision to that effect would be taken and accordingly whatever the benefits can be extended to these petitioners would also be decided and be implemented.

13. In view of the said stand taken by the University, this Court is of the view that, let University take a conscious decision by taking into account the issues pragmatically that, these petitioners, as that of the similarly placed persons, have rendered service to the University Institution. Therefore, they would be entitled to seek the benefit of calculating their earlier service for the purpose of fixing the correct salary payable to them

14. In that view of the matter, this Court is inclined to dispose of this writ petition with the following directions:

'(i) that the respondents University is hereby directed to consider the request of the petitioners in the light of the earlier order passed on 18.03.2015 to the similarly placed persons and while considering the same, the report submitted by the One Man Commission referred to above, shall also be taken into account. Accordingly, a pragmatic decision shall be taken by the syndicate of the University during the next meeting, where the One Man Commission report is expected to be placed for discussion and deliberation.

(ii) Once a decision is taken and the University decides to extent the benefit to the petitioners as that of the similarly placed persons to whom the benefit have already been extended as stated above, it shall pass necessary orders to that effect, thereafter, within a period of eight (8) weeks i.e., from the date of Syndicate decision.'

15. Accordingly, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

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/ /2020

Sub Assistant Registrar (CS)



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1. The Secretary to Government,
State of Tamil Nadu,
Higher Education (K1) Department,
Secretariat, Chennai-9.

2. The Registrar,
Madurai Kamaraj University,
Madurai 625 021.

3. The Vice Chancellor,
Vice Chancellor's Office,
Madurai Kamaraj University,
Madurai-625 021.

+2 CC to M/s. ISAAC CHAMBERS, Advocate (SR-14544 & 14545)

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