

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.20908 of 2014
and
WMP.No.3788 of 2016

C.Theagarajan

...Petitioner

-Vs-

1. The Principal Secretary of Govt.,
Higher Education Department,
Govt.of Tamil Nadu, Secretariat,
Chennai - 600 009.
2. The Director,
Collegiate Education, DPI Compound,
Nungambakkam, Cathedral,
Chennai - 600 006.
3. The Principal,
Government Arts College,
Melur - 625 106,
Madurai District.

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the first and second Respondents to sanction pension and other retirement benefits to the Petitioner for his 11 years and 1 month qualifying services and interest of belated payment of his retirement benefits and any other order, which deems fit and proper in the interest of justice.

For Petitioner : Mr.A.N.Rajan
For R1 to R3 : Mr.Akil Akbar Ali, GA

ORDER

Heard both sides and perused the materials brought on record.

2.According to the petitioner, he was appointed as Assistant Professor of Mathematics in Government Arts College, Dharmapuri and he joined duty on 30.07.1965. Subsequently, he was

transferred to the Government Arts College, Krishnagiri on 16.09.1967. His services were regularized and he was declared to have completed the period of probation on 05.11.1967. Later, he was promoted as Professor and transferred to the Government Arts College, Melur, where he joined duty on 20.08.1975. While so, he went on leave from 21.06.1977 to 20.06.1979, which was considered. However, his further extension of leave was not considered and was refused and he was directed to join duty, by the proceedings of the second respondent dated 29.04.1980. Since he was unable to join duty, he made representation to the second respondent, through the Principal of the College, permitting him to resign his job, to which, by the proceedings of the second respondent dated 07.08.1980, he was directed to submit a declaration to the effect that he is fully aware of the consequences of his resignation of the post of Professor of Mathematics. Accordingly, the petitioner submitted his declaration on 11.08.1980. Thereafter, he made representations dated 24.02.2012 and 12.12.2012 to the second respondent requesting to grant pension and other benefits due to him for the qualifying services of 11 years, 3 months and 17 days during the period from 30.07.1965 to 20.06.1977 rendered by him. Since the said representations were not considered, the petitioner has come up with this writ petition for the aforesaid relief.

3. Upon notice, the respondents filed a detailed counter affidavit, wherein, it is inter alia stated that pursuant to the proceedings of the second respondent dated 07.08.1980, the petitioner submitted his declaration to the effect that he is fully aware of the consequences of his resignation of the post of Professor of Mathematics. However, in paragraph 3, it is averred as follows:

"3. It is submitted that the petitioner's representations dated 24.02.2012 and 12.12.2012, wherein he claimed for sanction of pension and other benefits, were considered and examined by the second respondent and third respondent based on the statement of the petitioner and copies of service records which were produced by him and based on this, a proposal was forwarded by the second respondent to the first respondent in letter Rc.No.11487/C1/2011 dated 17.04.2013. The first respondent also examined the said proposal of the second respondent and informed the second respondent stating that in the absence of the connected files, records and the original service book of the petitioner, the request made by him for grant of pension cannot be considered vide Letter No.5203/F1/2013, Higher Education (F1) Department, dated 14.08.2013."

4. In the given facts and circumstances of the case, this Court is of the opinion that the reasons stated in the counter affidavit filed by the respondents that the files are not available for considering the claim of the petitioner seeking pension and other benefits, cannot be countenanced. Hence, the respondents are directed to consider the claim of the petitioner afresh and pass appropriate orders, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

5. Accordingly, this writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Principal Secretary of Govt.,
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2. The Director,
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3. The Principal,
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+1 CC to Mr. A. N. Rajan, Advocate sr 1539.

W.P.No.20908 of 2014

MG(CO)
SP(09/03/2021)