



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.2303 of 2011

and W.M.P. (MD) No.4905 of 2016

(Through Video Conferencing)

WEB COPY

DR.S.Boopathy

... Petitioner

Vs.

1.The Registrar,
Tamil University
Thanjavur.

2.The University Grants Commission,
rep. by its Secretary
New Delhi.

3.The Secretary to Government
Tamil Development and Religious Endowment,
and Information Department, Government of Tamilnadu
Fort St. George, Chennai.

4.The Secretary to Government
Department of Local Fund Audit
Government of Tamilnadu,
Fort St. George, Chennai.

... Respondents

(R2 to R4 have been impleaded as per order dated 21.02.2014
in M.P. (MD) No.1/2014)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned orders passed by the 1st respondent in his proceedings in Na.Ka.No.4967/01/2004 dated 01.07.2004 and quash the same and consequently direct the respondents to refund a sum of Rs.72,277/- which was recovered from the retirement benefits of the petitioner.

(Prayer amended as per order of this Court
dated 22.03.2016 in WMP(MD) No.4904/2016)

For Petitioner	:	Mr.V.Vijay Shankar
For Respondents	:	Mr.R.Krishnamoorthi for R1 Mr.Muthugeethaiyan for R2 to R4 Special Government Pleader

ORDER

Challenging the impugned order dated 01.07.2004 passed by the 1st respondent and for a consequential direction to the respondents

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to refund the sum of Rs.72,227/- which was recovered from the retirement benefits of the petitioner, the writ petition has been filed.

2. The case of the petitioner is that the petitioner has started his career as Linguist in the office of the Registrar General of India, Ministry of Home Affairs. After having served in the said department for 22 years, he tendered his voluntary retirement. As such, he was relieved from 30.11.1988. Thereafter, he joined the respondent University as Associate Professor. The petitioner worked as Associate Professor and subsequently, he was promoted as Professor under Career Development Scheme and superannuated on 31.01.2004. However, he was allowed to work till the end of the academic year. Thereafter, he was granted the provisional pension and other benefits, such as DCRG, commuted value of pension etc. and was not granted regular pension. However, without any reason, vide impugned order, the respondent University recovered a sum of Rs.72,227/- as excess payment. Subsequently, the petitioner filed W.P.(MD) No.9117/2005 before this Court for a direction to the respondents therein to grant regular pension. This Court vide order dated 27.10.2006 disposed of the said writ petition by directing the respondents therein to pay pension and other terminal benefits. On the strength of the order passed by this Court, the petitioner is getting his pension. However, with regard to the sum of Rs.72,227/-, since the order is silent, the petitioner is before this Court challenging the impugned order dated 01.07.2004.

3. The learned counsel for the petitioner would submit that though the order impugned was passed as early as on 01.07.2004 and subsequently, the petitioner, on the strength of the direction issued by this Court in W.P.(MD) No.9117/2005, was granted regular pension and other terminal benefits in the year 2008. However, it is his case that a sum of Rs.72,227/- has been withheld from the terminal benefits on the ground that he was inadvertently granted promotion and the petitioner is not entitled to the said sum. However, the said promotion was granted not by way of his misrepresentation and the promotion was granted, after duly considered his past services. In the absence of any misrepresentation, the said amount cannot be withheld from the terminal benefits and hence, a direction may be issued to the respondent University to settle the amount within a reasonable time.

4. The learned counsel for the respondent University would submit that the impugned order was passed on 01.07.2004. The fact remains that on 01.07.2004, on the basis of the audit objection made with regard to promotion and higher pay, the respondent passed the impugned order and hence, the petitioner is not entitled to the said sum. Thereafter, the petitioner was sanctioned with the benefits including pension from the year 2008. However, the petitioner has not challenged the said order dated 01.07.2004 at the relevant point



of time. Even in the earlier writ petition, there is no ground raised and in this writ petition also, the petitioner has not explained the reasons for delay.

5. Heard the learned counsel for the petitioner, the learned counsel for the respondent University and the learned Special Government Pleader for the respondents 2 to 4.

6. The facts in the present case are not disputed. The petitioner joined the respondent University in the year 1998 and subsequently retired on 31.01.2004. Since he was not sanctioned with regular pension, he approached this Court by filing W.P.(MD) No.9117/2005 and this Court, by order dated 27.10.2006, directed the respondents therein to disburse the pension and other benefits. As such the petitioner was sanctioned pension and other benefits in the year 2008. However, a sum of Rs.72,227/- has been withheld from the terminal benefits on the ground that the petitioner was inadvertently granted promotion and the petitioner is not entitled to the said sum.

7. As rightly pointed out by the learned Special Government Pleader, the petitioner did not raise any ground with regard to the withholding of Rs.72,227/- in the earlier writ petition. However, after lapse of seven years, without proper explanation, the petitioner is before this Court with the aforesaid prayer. Hence, this Court is not inclined to grant any relief to the petitioner. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

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 Registrar,
Tamil University
Thanjavur.

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University Grants Commission,
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+1 CC to M/s.V.KARTHIKEYAN, Advocate (SR-174[F] dated 06/01/2021)

+1 CC to M/s.GP (SR-231[F] dated 06/01/2021)

W.P. (MD)No.2303 of 2011
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(PK)CO

AP(03/02/2021) 4P 7C