



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2021

CORAM:

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P. (MD).No.20312 of 2021

W.M.P. (MD).No.16971 of 2021

WEB COPY

M.Maharajan

... Petitioner

Vs.

The Manonmaniam Sundaranar University,
Rep.by its Registrar,
Abhishekapatti, Tirunelveli-627 012.

... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned resolutions of the Finance committee and the Syndicate dated 10.11.2020 (Agenda item No.56.4) and 11.11.2020 (Item No.191.T1) respectively and the consequential impugned proceedings of the University in Ref.MSU/R/Estt (Admn)/DADT/2021 dated 29.06.2021 (communicated by the District Adi Dravidar and Tribes Welfare Officer vide proceedings dated 05.07.2021) and quash the same and further direct the respondent University to revise and re-fix the petitioner's pay in the post of Junior Assistant in terms of Rule 22-B of the Fundamental Rules, G.O.Ms.No.303 Finance (Pay Cell) Department dated 11.10.2017, G.O.Ms.No.311, Finance [Pay Cell] Department dated 23.10.2017 and G.O.Ms.No.173 Personnel and Administrative Reforms [FR-II] Department dated 11.11.2019 w.e.f. 15.02.2019 (sanctioning one increment at Cell 15 in Level 5 itself in the pay of Rs.27,600/- and then at Cell 13 in Level 8 in the pay of Rs.27,800/-) and disburse the same, within a reasonable time as may be fixed by this Court.

For Petitioner : Mr.T.Cibi Chakraborty

For Respondent : Mr.Mahaboob Athiff

ORDER

The petitioner, who is working as Junior Assistant in the respondent University, has filed this writ petition seeking a direction to the respondent to revise the petitioner's pay matrix in the post of Junior Assistant.

2. The learned counsel for the petitioner claims that the petitioner was drawing salary of Rs.26,800/- in the post of Attender upto the month of January 2019. In February 2019, he was promoted as Junior Assistant in the respondent University. However, his scale of pay has been fixed as Rs.19,500/-.



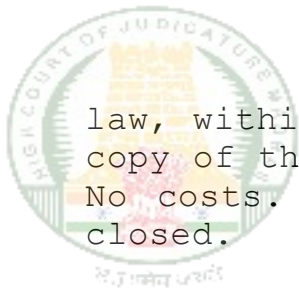
Therefore, the petitioner has made a representation to the District Adi Dravidar and Tribes Welfare Officer, Tirunelveli, based on the fundamental rules amended in G.O.(Ms).No.173, Personnel and Administrative Reforms (FR-II) Department dated 11.11.2019. However, cryptic orders have been passed by the Syndicate, without assigning any reason. Therefore, the petitioner has filed this petition as against the impugned orders.

3. Mr.Mahaboob Athiff, learned counsel takes notice on behalf of the respondent and submits that it is not at all a promotion. He points out from the impugned order that the petitioner was appointed as Junior Assistant. Therefore, as per the existing pay, the petitioner has been receiving salary of Rs.19,500/-, for the post of Junior Assistant.

4. However, the learned counsel for the petitioner has relied on G.O.Ms.No.173, Personnel and Administrative Reforms (FR-II) Department, wherein certain amendments have been carried out with regard to the fundamental rules with effect from 1st January 2016 and the relevant portion is extracted hereunder:

"notwithstanding anything contained in these rules, where a Government servant holding a post in a substantive or officiating capacity, is promoted or appointed in a substantive or officiating capacity, to another post carrying duties and responsibilities of greater importance than those attached to the post held by him, his initial pay in the level of the higher post in the pay matrix shall be fixed by granting one increment in pay in the level of the lower post and he shall be placed at a cell equal to the pay so arrived at in the level of the higher post in the pay matrix of the higher post, and if, no such cell is available in the level of the higher post to which he is promoted, the initial pay shall be fixed at next higher cell in the level of the higher post. However, if the pay so arrived at in the level in the lower post after granting one increment is lower than the minimum pay or the first cell in the level of the higher post, the initial pay shall be fixed at minimum pay or the first cell of the level of higher post".

5. Since, in the Government Order itself, it has been stated that the initial pay of a Government servant in the higher post shall be fixed by granting one increment in pay matrix from the level of the lower post, this Court is inclined to set aside the impugned order passed by the University in Ref.MSU/R/Estt (Admn)/DADT/2021 dated 29.06.2021 with a direction to consider the petitioner's case afresh in the light of Rule 22(B) of the Fundamental Rules and pass orders on merits and in accordance with



law, within a period of three months from the date of receipt of a copy of this Order. Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

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Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ssb

To
The Registrar,
Manonmaniam Sundaranar University,
Abhishekapatti, Tirunelveli-627 012.

+1 CC to M/s.T. CIBI CHAKRABORTHY, Advocate (SR-34424[F] dated 15/11/2021)

**W.P. (MD) .No.20312 of 2021
12.11.2021**

SMV (CO)
SB(21.12.2021) 3P 3C