



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 19.02.2021

Pronounced on : 15.03.2021

CORAM

THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.P.(MD) No.15345 of 2015

and

MP(MD)No.1 of 2015

A.Thirumurthy

... Petitioner

-vs-

1. The Principal Secretary to Government,
Higher Education Department,
Secretariat,
Chennai - 600 009.
2. The Vice Chancellor,
Bharathiar University,
Coimbatore - 641 046.
3. The Registrar,
Bharathiar University,
Coimbatore - 641 046.
4. The Secretary, State Eligibility Test-2012,
and the Controller of Examinations,
Bharathiar University,
Coimbatore - 641 046.
5. The Finance Officer,
Bharathiar University,
Coimbatore - 641 046.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents to settle the petitioner's pending fee and expenses bills dated 24.07.2013, 26.09.2013, 18.11.2013, 06.01.2014, 19.01.2014 and 18.03.2014 to the total amount of Rs.10,49,689/- (Rupees ten lakhs, fourty nine thousand, six hundred and eighty nine only) along with 18% interest from the date of claim and a compensation of Rs.2,00,000/- within a time limit to be fixed by this Court.

For Petitioner : Mr.G.Rajagopalan
Senior Counselling
for Mr.V.Panneer Selvam

For Respondent 1: Mr.R.Murugan
Additional Government Pleader

For Respondents : Mr.M.Rajarajan
2 to 5 Standing Counsel



ORDER

The brief facts and circumstances of the case in filing the Writ Petition are stated hereunder:

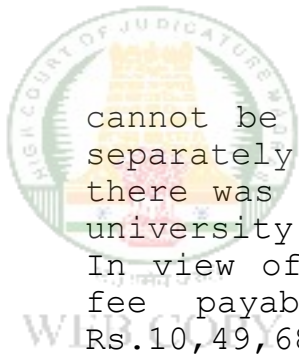
1.1.The petitioner is an Advocate having enrolled before the Bar Council of Tamil Nadu in 1977 and has been practicing both at the Principal Seat as well as before this Bench, ever since his enrolment. In 2013, the petitioner was appointed as a panel Advocate for second respondent university, for a period of one year from 08.05.2013 vide proceedings dated 13.05.2013. In pursuance of the appointment, the petitioner was requested by the university to represent all the cases pertaining to them before the Madurai Bench of the Madras High Court.

1.2.According to the petitioner, at the time of his appointment as panel Advocate, regarding fees structure the understanding was that the same would be payable as per the annexure-I, supposed to be enclosed along with the appointment letter but the same was not in fact enclosed for the petitioner's reference.

1.3.During the period of his professional engagement, the petitioner appears to have represented the university in several matters before this Court and has also filed a batch of Writ Appeals against a particular decision by a learned Single Judge of this Court. The petitioner has given the details of the cases appeared by him and also the expenses incurred for filing of the batch of writ appeals and also the fees claimed by him on the basis of the understanding between him and the university, at the time when he was appointed as panel Advocate in 2013.

1.4.The dispute in this case whether the petitioner has to be paid equivalent to the appearance fees as applicable to the position of the Additional Advocate General appointed by the Governance of Tamil Nadu or he is only entitled to be treated as a Government Advocate or Additional Government Pleader in terms of G.O.Ms.No.1033, Public (Law Officers) Department, dated 01.11.2010, which order prescribes various fees structure payable to Law Officers, representing the Government including State run corporations etc.

2.Mr.G.Rajagopalan, learned Senior Counsel appearing for the petitioner would submit that there was a dispute in regard to payment of individual fees in a batch of Writ Appeals filed by the petitioner. According to him, individual writ appeal has to be filed in respect of batch of writ petitions allowed by the learned Single Judge of this Bench. The petitioner being an Advocate has to adopt proper procedure and had to file as many writ appeals as the number of Writ Petitions allowed by the Single Judge and this was objected to by the university on the ground that the petitioner ought to have filed a single writ appeal. According to the learned Senior Counsel, the university had not realized that when orders were passed individually in Writ Petitions, single Writ Appeal



cannot be filed and each Writ Petition had to be appealed against separately. Besides, the learned Senior Counsel pointed out that there was a difference of opinion as between the petitioner and the university officials in regard to payment of fees to the petitioner. In view of the difference of opinion and understanding, the actual fee payable as claimed by the petitioner to the tune of Rs.10,49,689/- (Rupees ten lakhs, forty nine thousand, six hundred and eighty nine only) has not been paid for the total period when the petitioner's services were engaged by the university.

3.The stand of the university is, it is not inclined to honouring the payment due to the petitioner despite the petitioner incurring expenses towards filing of a batch of writ appeals and also appearance fees commensurate with his standing at the bar and his long experience, by equating his status as that of Additional Advocate General. According to the learned Senior Counsel, the petitioner being an Advocate having enrolled in 1977 and has been practicing in the High Court ought to have been treated as equal to the rank of Additional Advocate General. When he was appointed as a panel Advocate, in fact, he was given to understand that he would be accorded due status and appearance fees would be paid accordingly. But, the university officials have gone back from the understanding and started disputing the fees claimed by the petitioner under some pretext or the other and reduced the professional engagement of the petitioner into a needless controversy of not sanctioning the bills submitted by the petitioner.

4.At this, the learned Counsel appearing for the university would submit that the dispute arose regarding settlement of fees to the petitioner in 2013 but the issue could be sorted out in the present dispensation as there appeared to be lack of understanding in appreciating the claim of the petitioner towards his professional fees during the period of his engagement as panel Advocate in 2013.

5.The learned Senior Counsel would submit that let the university officials to consider the affidavit filed in support of his claim as a representation by the petitioner and the second respondent may be directed to take a final decision this regard after due examination and appreciation of the petitioner's claim with reference to the contents of the affidavit and also with reference to the documents filed in support of his claim in the present Writ Petition.

6.This Court is in agreement with the above submission that the dispute of this nature could be set at rest if the university officials appreciate the claim of the petitioner with open mind towards processing of the claim of the petitioner, with all earnestness.



7. In the said circumstances, this Court without expressing any views on the claim of the petitioner is inclined to dispose of this Writ Petition with the following directions:

(i) The second respondent is directed to take appropriate decision in honouring the claim of the petitioner by treating his affidavit filed in support of the Writ Petition as the basis of the petitioner's claim.

(ii) The second respondent is also directed to take into consideration the status of the petitioner being a lawyer of considerable standing at the Bar for over 35 years of practice in the High Court and the sanctioning of the claim must commensurate with his standing, experience and legal acumen.

(iii) The petitioner is also directed to forward any relevant materials including the typed set of documents filed along with the writ petition in this regard to the second respondent for his due appreciation and understanding.

(iv) The second respondent on the basis of all the materials that are made available shall pass orders within a period of four weeks from the date of receipt of a copy of this order.

(v) If the second respondent is of the opinion that a personal meeting with the petitioner is necessary in order to resolve the issue amicably, he may send a communication and ask for personal appearance of the petitioner and any such communication for his appearance, the petitioner is directed to oblige and appear and extend his cooperation for resolving the issue comprehensively.

(vi) Any order is passed on the basis of the above direction and the petitioner is not satisfied with the same, he is at liberty to work out his remedy in a manner known to law, if he is so advised.

8. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



- To
1. The Principal Secretary to Government,
Higher Education Department,
Secretariat, Chennai - 600 009.
 2. The Vice Chancellor,
Bharathiar University,
Coimbatore - 641 046.
 3. The Registrar,
Bharathiar University,
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 4. The Secretary, State Eligibility Test-2012,
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Bharathiar University, Coimbatore - 641 046.
 5. The Finance Officer,
Bharathiar University,
Coimbatore - 641 046.

+1 CC to M/s.C.S.ASSOCIATES, Advocate (SR-11215[F] dated 15/03/2021)

+1 CC to M/s.SPL GP (SR-11496[F] dated 16/03/2021)

Order made in
W.P. (MD) No.15345 of 2015

15.03.2021

CN(20.05.2021) 5P 8C