



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition (MD)No.20422 of 2017

Dr.V.Arumugam

..Petitioner

Vs.

1.The Principal Secretary to the Government of Tamil Nadu,
Higher Education Department,
Secretariat,
Fort St. George,
Chennai 600 009.

2.The Registrar,
Bharathidasan University,
Tiruchirapalli.

... Respondents

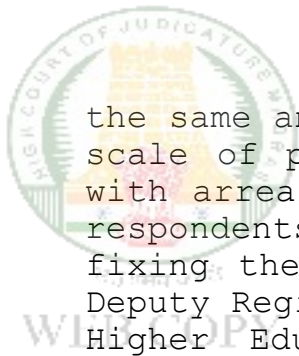
Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent's Official Memorandum in Na.Ka.No.B1/20824/2009, dated 25.09.2017 and quash the same as illegal and consequently direct the second respondent to grant the UGC scale of pay to the petitioner with effect from 29.03.1993 along with arrears with retrospective effect and consequently direct the respondents to sanction the retirement benefits to the petitioner, fixing the revised scale of pay of the petitioner in the post of Deputy Registrar at Rs.37400 - 67000 GP 8700, as per G.O.Ms.No.56, Higher Education (H1), Department, dated 25.02.2000 read with letter (Ms.)No.40 Higher Education (H1) Department, dated 19.03.2013 issued by the first respondent.

For Petitioner	: Mr.P.Ganapathi Subramanian
For R1	: Mr.A.Karthik Government Advocate
For R2	: Mr.V.R.Shanmuganathan Standing counsel

O R D E R

This writ petition has been filed challenging the impugned order passed by the second respondent, dated 25.09.2017 and quash

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the same and consequently, direct the second respondent to grant UGC scale of pay to the petitioner with effect from 29.03.1993, along with arrears with retrospective effect and consequently, direct the respondents to sanction the retirement benefits to the petitioner, fixing the revised scale of pay of the petitioner in the post of Deputy Registrar at Rs.37400 - 67000 GP 8700, as per G.O.(Ms).No.56, Higher Education (H1), Department, dated 25.02.2000, read with Letter (Ms.)No.40 Higher Education (H1) Department, dated 19.03.2013, issued by the first respondent.

2. The case of the petitioner is that he was appointed as Assistant Professor of Commerce in V.S.S.Government Arts College, Pulankurichi, Ramnad District, in the year 1983. Thereafter, he was transferred to Arignar Anna Government Arts College, Musiri, Thiruchirapalli District, in the year 1985. On 23.03.1989, the petitioner was selected to the post of Assistant Controller of Examinations, Bharathidasan University, Tiruchirapalli, for a period of one year and he joined as Assistant Controller on 01.03.1990 and received the UGC pay scale. Thereafter, the second respondent appointed the petitioner as Deputy Registrar, on 28.03.1993. By virtue of G.O.(Ms.)No.1079, dated 15.04.1993, issued by the first respondent, the petitioner was retained in the post of Lecturer till 11.09.1993, in exercise of power of relaxation in Rule 48 of the General Rules for State and Subordinate Services. In the year 1999, the petitioner was reverted to Assistant Controller of Examination from the post of Temporary Deputy Registrar. Hence, the petitioner has filed a writ petition in W.P.(MD).No.19345 of 1999 before this Court and this Court, by order dated 06.12.1999, granted interim stay of reversion, in W.M.P.(MD).No.28342 of 1999. Therefore, the second respondent, by proceedings dated 18.01.2002, cancelled the order dated 02.11.1999 and the service of the petitioner was regularised as Deputy Registrar. However, the petitioner was treated as non-teaching staff and the scale of pay was fixed as non-teaching staff. Thereafter, the petitioner sent various representations seeking U.G.C. scale of pay, by referring G.O.(Ms.)Nos.56, dated 25.02.2000, G.O.(Ms.)No.45, dated 23.02.2011 and Letter (Ms.)No.40, dated 19.03.2013 and subsequently, he was retired on 31.10.2013. Thereafter, on 25.09.2017, the second respondent has rejected the petitioner's request and the said rejection order was passed, based on the letter dated 05.06.2017, issued by the Assistant Director of Local Fund Audit Department of Bharathidasan University. Challenging the said rejection order, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner has made a representation, in order to avail UGC scale of pay, as per G.O.(Ms.)Nos.56, dated 25.02.2000, G.O.(Ms.)No.45, dated 23.02.2011 and Letter (Ms.)No.40, dated 19.03.2013 and seeking to treat the petitioner as teaching staff. However, the said request was rejected by the second respondent, based on the audit objection. The said audit objection was not
<https://www.mca.gov.in/> services provided to the petitioner and without hearing the petitioner,



based on the audit objection, the second respondent has passed the impugned order, which is non est in the eye of law and it is clear violation of principles of natural justice.

4. Mr.V.R.Shanmuganathan, learned Standing counsel appearing for the second respondent would submit that the impugned order was passed, based on the audit objection. However, no show cause notice was issued. Hence, this Court may set aside the impugned order and remand the matter back to the authorities for compliance of principles of natural justice.

5. Taking into consideration of the submission made by the learned Standing counsel appearing for the third respondent, this Court is inclined to set aside the impugned order. Accordingly, the impugned order passed by the second respondent, dated 25.09.2017, is set aside and the matter is remanded back to the second respondent and the second respondent is directed to pass orders, after hearing the petitioner. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

akv

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 Principal Secretary to the Government of Tamil Nadu,
Higher Education Department,
Secretariat,
Fort St. George,
Chennai 600 009.

2.The Registrar,
Bharathidasan University,
Tiruchirapalli.

+1 CC to M/s.SPL GP (SR-7535[F] dated 26/02/2021)

+1 CC to M/s.P.GANAPATHI SUBRAMANIAN, Advocate (SR-7697[F] dated
26/02/2021)

M. DHANDAPANI, J.

akv

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SP (24.05.2021) 4P 5C