

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.14991 of 2022
and
WMP No.14211 of 2022

O.Balakrishnan

... Petitioner

Vs.

1. The Registrar ,
Bharathiyar University,
Coimbatore-46.

2. The Correspondent,
Thavathiru Shanthalinga Adigalar Arts and
Science and Tamil College, Perur Main Road,
Perur, Coimbatore - 10.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus, directing the first respondent to notionally promote the petitioner to the post of Associate Professor by considering his past service for about 10 years 5 months with the second respondent college and consequently re-fix his basis pay and Academic Grade Pay and other allowances as well as his pension and other terminal benefits and to pay the arrears with nominal interest.

For Petitioner : Mr.R.Sivakumar

For Respondents: Mr.C.Vigneshwaran for R1

ORDER

This Writ petition has been filed seeking to issue a Writ of Mandamus, directing the first respondent to notionally promote the petitioner to the post of Associate Professor by considering his past service for about 10 years 5 months with the second respondent college and consequently re-fix his basis pay and Academic Grade Pay and other allowances as well as his pension and other terminal benefits and to pay the arrears with nominal interest.

2. Heard the learned counsels appearing for both the parties and I have perused the materials on record.

3. The petitioner was appointed as Assistant Professor [Lecturer (Tamil)] with the second respondent and he continued to work for a period of more than 10 years till 23.03.2009. Without any break in service, he was appointed as Assistant Professor (Tamil) in the first respondent's University and he joined duty on 24.03.2009. Thereafter, the petitioner filed an application under Career Advancement Scheme (CAS) by UGC seeking promotion to the post of Associate Professor by taking into consideration his earlier service about more than t10 years with the second respondent's college. Since the said representation was not considered, he filed a Writ Petition in W.P.No.29941/2015 and this Court vide order dated 23.09.2015, has directed the first respondent to consider the petitioner's representation. Pursuant to the above order, the first respondent passed an order dated 06.01.2016, holding that the earlier service of the petitioner was already considered for Pay protection and fixation of pay and hence, once again the earlier service cannot be considered for promotion. As against the above said order, the petitioner has filed W.P.4860 of 2016 and it was pending. In the meanwhile, the petitioner had attained superannuation and retired from service on 30.04.2018. Therefore, to get pensionary benefits, the petitioner was constrained to withdraw the above writ petition, accordingly, W.P.4860 of 2016 was dismissed as withdrawn on 25.02.2020.

3.1. According to the petitioner, in the order of the first respondent dated 06.01.2016, the first respondent himself admitted that the petitioner's promotion will be considered to the post of Assistant Professor w.e.f. 24.03.2014. If the petitioner had given promotion to the post of Assistant Professor by March 2014, then he would have been qualified for further promotion to the post of Reader atleast by March 2018, earlier to his retirement on 30.04.2018. Similar request as that of the petitioner was considered in the case of his college Dr.R.Jeyaraman by the first respondent vide proceedings dated 25.09.2009. Therefore, the petitioner gave elaborate representation dated 05.11.2021. But the first respondent has not taken any decision. Hence this writ petition.

4. Mr.C.Vigneshwaran, learned counsel taking notice for the first respondent submitted that, the representation of the petitioner will be considered by the first respondent and appropriate orders will be passed in accordance with law.

5. Inview of the above submission and also considering the limited scope of prayer, without expressing any opinion on merits, this court is inclined to pass the following order.

i) The first respondent is directed to consider the representation of the petitioner dated 05.11.2021 and pass appropriate orders on its own merits and in accordance with law, as early as possible, within a period of twelve weeks from the date of receipt of a copy of this order.

ii) The petitioner is directed to furnish the copy of the representation along with the copy of this order to the first respondent, within a period of one week from the date of receipt of a copy of this order.

6. With the above directions, the writ petition is disposed of. No costs. Consequently, connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

True Copy//

Sub Assistant Registrar

mst

To

The Registrar ,
Bharathiyar University,
Coimbatore-46.

+1cc to Mr.R.Sivakumar, Advocate, S.R.No.36321

W.P.No.14991 of 2022

PM[co]
NSK/11/07/2022