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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved	26.08.2021
Pronounced	07.01.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.27383 of 2017

and

W.M.P.No.29280 of 2017 & W.M.P.No.1598 of 2020

T.Padmanathan

... Petitioner

vs

1. The University of Madras,
Represented by its Registrar,
Chepauk,
Chennai - 600 005.

2. The Chairman,
Syndicate of the University of Madras,
Chepauk,
Chennai - 600 005.

... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records relating to first respondent's order made in proceedings No.F.1(A)/Estt./Discip./2013/2355 dated 07.11.2013 and that of the second respondent's order made in Official Communication No. F.1(A)/Estt/Discip/2017/404 dated 03.10.2017, to quash the same and to consequently direct the respondents to extend all benefits, both service and monetary, including revision and re-fixation of pension and other pensionary benefits forthwith thereto.

For Petitioner : M/S.L.Chandrakumar

For R1 : Mr.T.Sathiyamoorthy
for Mr.Mani Sundargopal

ORDER

The petitioner was issued with a Charge Memo dated 01.06.2012 which culminated in an order imposing penalty on 07.11.2013.

2. By the aforesaid order, the Syndicate of the University of Madras has imposed penalty on the petitioner by



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reducing the rank of the petitioner to lower post for the remaining period of service in the University of the petitioner from the date of Syndicate Meeting i.e., on 13.09.2013. The petitioner attained the age of superannuation on 31.01.2014.

3. In view of the above, the Syndicate has also decided that the pay of the petitioner be reduced to the lower post in view of the punishment fixed at the minimum of the pay band and grade pay applicable to the lower post and has fixed the pension accordingly.

4. Appearing on behalf of the petitioner, the learned counsel for the petitioner submits that about sixteen (16) employees were charge sheeted for creating false dummy numbers and that about eight (8) of them already challenged the punishment imposed by the Registrar of the Madras University in several writ petitions.

5. It is submitted that a learned Single Judge of this Court by an order dated 22.09.2017 passed in W.P.Nos.30701 and 30783 of 2013, 975 to 980 of 2014 had allowed the writ petitions filed by the the co-delinquents who were serving as Assistant Section Officer, Section Officer etc with the respondents University.

6. The aforesaid order of the learned Single Judge was challenged before the Hon'ble Division Bench of this Court in W.A.Nos.1532 to 1539 of 2017. By an order dated 14.08.2018, after considering the rival submissions of the parties, in Paragraphs 27 and 28, the Hon'ble Division Bench of this Court ultimately held as follows:-

"27. Insofar as the other employees are concerned viz., the respondents in W.A.Nos.1532, 1533, 1534 and 1536 of 2017 are concerned the punishments awarded to them will stand reduced to reduction in rank for a period of 1 year on par with the respondent in W.A.No.1538 of 2017. These Writ Appeals viz., W.A.Nos.1532, 1533, 1534, 1536 and 1539 of 2017 will stand partly allowed by modifying the punishments into reduction to lower post in the time scale of pay for a period of 1 year instead of 5 years, 3 years and 2 years as imposed by the Disciplinary Authority.

28. In fine, the W.A.Nos.1532, 1533, 1534, 1536 and 1539 of 2017 are partly allowed and the punishment of reduction in rank for a period of 2 years, 3 years and 5 years imposed on the respondents in these appeals will stand reduced to reduction in rank to a lower post for a period of 1 year. Insofar as the W.A.Nos.1535, 1537 and 1538 of 2017 are



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concerned these Writ Appeals will stand allowed confirming the punishments imposed by the University and the Writ Petitions viz., W.P.Nos.976, 977 and 979 of 2014 will stand dismissed. However, in the circumstances, there will be no order as to costs. Consequently, the connected Miscellaneous Petitions are also closed."

7. The learned counsel for the petitioner submits that similar relief may be granted to the petitioner by moulding the punishment imposed on the petitioner by way of reduction in the rank to the lower post for a period of one year from the date of Syndicate Meeting dated 13.09.2013 retrospectively.

8. The learned counsel for the petitioner further submits that the petitioner is being put to unfair disadvantage as the pension has been fixed on the lower post as the petitioner superannuated on 31.01.2014 and therefore there should be a parity.

9. Defending the stand of the University, the learned counsel for the first respondent submits that the petitioner had not filed the writ petition earlier and the orders which came to be passed in W.A.Nos.1532 to 1539 of 2017 will not apply to the facts of the case. It is submitted that the petitioner was fully heard before the punishment was imposed and therefore there is no scope for interference in this writ petition.

10. The learned counsel for the first respondent further submits that the decision of the Hon'ble Division Bench of this Court in W.A.Nos.1532 to 1539 of 2017 cannot be applied as the charges against the petitioner were proved which were grave and serious in nature.

11. That apart, the learned counsel for the first respondent further submits that scope of Judicial Review under Article 226 of the Constitution of India is confined only to the decision making process and not the decision per se and therefore prays for dismissal of this writ petition.

12. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

13. The petitioner was employed with the respondent university (The University of Madras) as a Junior Assistant on 24.12.1983 and was promoted as an Assistant on 29.01.1992 and was later promoted as an Assistant Section Officer on



15.07.1994. While working as a Section Officer the petitioner had attained his age of superannuation on 31.01.2014.

14. Earlier, the petitioner was issued with a Charge Memo dated 01.06.2012, wherein the petitioner along with other Co-delinquents were Charge Sheeted for alleged role played by them in not maintaining the secrecy in the dummy number assigned in the exams resulting in large scale tampering of the results in the examinations conducted by the respondent university during May 2011.

15. The disciplinary proceedings ultimately culminated in a punishment order dated 07.11.2013 of the first respondent bearing reference Proceedings No.F.1(A)/Estt./Discip,/2013/2355 which is impugned in this writ petition.

16. Aggrieved by the aforesaid order, the petitioner had also preferred an appeal before the second respondent who by the impugned order dated 03.10.2017 bearing reference Official Communication No.F.1(A)/Estt./Discip,/2017/404 dismissed the appeal pursuant to a direction issued by this Court in W.P.No.34493 of 2013. Meanwhile, some of the co-delinquents had independently challenged the punishment orders in W.P.Nos.30701 and 30783 of 2013, 975 to 980 of 2014 which was allowed by the learned Single Judge of this Court by an order dated 22.09.2017.

17. After discussing the case on merits, the aforesaid order of the learned Single Judge was later modified by the Hon'ble Division Bench of this Court in W.A.No.1539 of 2017 vide order dated 14.08.2018, thereby reduced the punishment imposed to reduction in the rank for a period of two years, three years and five years to a period of one year.

18. As far as the petitioner is concerned, the benefit of the order of the learned Single Judge could not have been extended as it was passed much later. Meanwhile, the petitioner has attained his age of superannuation on 31.01.2014. A problem arises in so far as the implementation of the order dated 14.08.2018 of the Hon'ble Division Bench of this Court in W.A.No.1539 of 2017 in the case of petitioner as a reduction in the rank for a period of one year after the age of superannuation is not possible and thus results in permanent impact on the pension of the petitioner.

19. For the same mis-conduct, the reduced punishment/penalty on the co-delinquents do not have lasting punishment on their pension prospect as it is confined only for a period of one year whereas, in the case of petitioner, the reduction in rank for a period of one year or three year has a lasting impact on the petitioner.



20. No doubt, the petitioner had indulged in mis-conduct which warranted punishment. However, the impact of the punishment imposed on the petitioner is having a lasting and cascading effect on the ultimate pension of the petitioner. It cannot be therefore sustained particularly in the light of the decision of the Hon'ble Division Bench of this Court vide order dated 14.08.2018 in W.A.Nos.1532 to 1539 of 2017 in the case of co-delinquents which has reduced the punishment for a period of one year.

21. Considering the above, the punishment imposed on the petitioner deserves to be modified to reduction in the rank of the petitioner for a period of one year between 13.09.2012 and 13.09.2013, being the period of one year proceedings the date of the punishment order. It shall deemed to have come to an end on 13.09.2013.

22. This would be in line with the views of the Hon'ble Division Bench of this Court in the above case of co-delinquents of the petitioner.

23. In the result, the writ petition stands partly allowed by directing the respondents to notionally reduce the rank of the petitioner as the Section Officer to the Assistant Section Officer for a period between 13.09.2012 and 13.09.2013 and restore the rank of the petitioner to the Post of Section Officer with effect from 13.09.2013 and recompute the pension, arrears and terminal benefits of the petitioner and pay the same to the petitioner within a period 90 days (3 months) from the date of receipt of a copy of this order.

24. This writ petition stands partly allowed in terms of the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar(CS)

//True copy//

Sub Assistant Registrar

rgm

To

1. The Registrar,
The University of Madras,
Chepauk,
Chennai - 600 005.



2. The Chairman,
Syndicate of the University of Madras,
Chepauk,
Chennai - 600 005.

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+1cc to Mr.L.Chandrakumar, Advocate SR.No.1580

W.P.No.27383 of 2017
and

W.M.P.No.29280 of 2017 & W.M.P.No.1598 of 2020

RP (CO)
GMY (02/02/2022)