



WEB COPY

W.P.(MD)No.2096 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.2096 of 2020

and

W.M.P. (MD)No.1751 of 2020

B.Shivakumar

... Petitioner

-Vs-

1.The Principal Secretary,
Department of Higher Education,
St.George Fort, Chennai.

2.The Registrar,
Madurai Kamaraj University,
Madurai-21.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 2nd respondent to account the service for pension benefits and pension from date of joining in the 2nd respondent University i.e., February, 1990-2005 for full pension till the superannuation and grant the promotion due to the petitioner and consequential benefits to be added in the pension benefits and in pension after the above implementation within a time period fixed by this Court.

For Petitioner	: Mr.R.Ramasamy
For R1	: Mr.G.V.Vairam Santhosh, Additional Government Pleader.
For R2	: Mr.K.Ragatheesh Kumar, For M/s.Isaac Chambers

ORDER

The relief sought for in the present Writ Petition is to direct the second respondent to count the services of the writ petitioner rendered in the post of Senior Technical Assistant from February, 1990 to 2005 for the purpose of calculating terminal and pensionary benefits.

2.The petitioner was selected as Senior Technical Assistant in the second respondent University and after completion of probation, his services were confirmed in the said post. The petitioner was selected to serve at Periyar Maniammai College of Engineering, Vallam and he made an application to the second respondent University to grant permission to join in the Periyar Maniammai College of Engineering in January, 2005. The second respondent University has not granted any permission and subsequently, the

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petitioner was terminated from service by the second respondent University.

3.The petitioner lost his employment in Periyar Maniammai College of Engineering also. Thereafter, he has submitted a representation to the second respondent University to consider his case for reinstatement in the same position as Senior Technical Assistant. The case of the writ petitioner was considered as a fresh appointment. The second respondent University passed a resolution, stating that "Thiru.Shivakumar worked as Senior Technician in Bio Informatics, School of Bio Technology may be freshly appointed and his previous service may be included for the pensionary benefits." Thus, the second respondent University has considered the representation of the writ petitioner and accordingly, appointed him afresh and extended the period of services already rendered by him in the second respondent University for the purpose of pensionary benefits. That being the resolution passed by the University, now, they cannot turn around and deny pensionary benefits by counting services rendered by the petitioner in the second respondent University.

4.As far as the break in service is concerned, the same is to be reckoned as non-duty without salary. However, the period of services rendered by the writ petitioner in the second respondent University from the year 1990 to 2005 is to be taken into consideration for the purpose of reckoning the qualifying service for payment of the pensionary and terminal benefits.

5.At this stage, the learned counsel for the petitioner made a submission that selection grade is also yet to be granted.

6.All such benefits are to be granted by verifying the eligibility of the petitioner for grant of selection grade. However, in respect of the count of services, the second respondent University itself passed a resolution and thus, the said benefit cannot be denied.

7.In view of the facts and circumstances of the case, the second respondent University is directed to count the services rendered by the petitioner in the post of Senior Technical Assistant from February, 1990 to 2005 for the purpose of reckoning the qualifying services and accordingly, settle the pensionary and terminal benefits, including the arrears of benefits to the petitioner. The said exercise is directed to be done, within a period of twelve (12) weeks from the date of receipt of a copy of this order.



8. Accordingly, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)

To

1. The Principal Secretary,
Department of Higher Education,
St.George Fort, Chennai.

2. The Registrar,
Madurai Kamarajar University,
Madurai-21.

+1 CC to M/s.R.RAMASAMY, Advocate (SR-19613[F] dated 20/04/2022)

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-19868[F] dated 20/04/2022)

+1 CC to M/s.SPL.GP. (SR-19711[F] dated 20/04/2022)

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