



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 17.03.2022

Pronounced on : 11.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.4705 of 2022

and

W.M.P.(MD)No.3930 of 2022

WEB COPY

V.Sethuramalingam

... Petitioner

vs.

1.The Bharathidasan University,
Through its Registrar,
Thiruchirappalli.

2.The Tamil Nadu Slum Clearance Board,
Through its Chairman,
No.5, Kamarajar Salai,
Chennai - 600 005.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the first respondent to count the service of petitioner from 21.03.1989 to 02.09.1993 with the second respondent, for his pension and other retiral benefits and forward appropriate revised pension proposals to the 2nd respondent accordingly.

For Petitioner : Mr.J.Anand Kumar
for Mr.S.Manikandan

For R1 : Mr.V.R.Shanmuganathan

O R D E R

This Writ Petition is filed for issuance of a Writ of Mandamus, to direct the first respondent to count the service of petitioner from 21.03.1989 to 02.09.1993 with the second respondent, for his pension and other retiral benefits and forward appropriate revised pension proposals to the 2nd respondent accordingly.

2. The brief facts of the case are that the petitioner has completed M.A. (Social Work) in 1985 and Ph.D., in 2001. The petitioner joined as Community Officer in the second respondent Board on 21.03.1989. Thereafter, the petitioner got employment in the first respondent University and was relieved from duty from the second respondent on 02.09.1993. He joined the service of the first respondent on 03.09.1993, as Lecturer in Social Work Department. The petitioner, thereafter, retired from service as Professor and Head



of the Department on 30.05.2019 and an extension of service was granted until 30.06.2019.

3. The contention of the petitioner is that he has served with a second respondent Board for 4 years 5 months and 12 days and has served with the first respondent University for 25 years 8 months and 28 days. According to the petitioner, he got relieved from the service of the second respondent Board for joining service in the first respondent and there is no break in service. The contention of the petitioner is that he has not resigned the job with the second respondent and hence, he is entitled to count the service with the second respondent from 21.03.1989 to 02.09.1993 for pensionary benefits. The service of the second respondent is pensionable service. The petitioner prayed first respondent for accounting the service of the second respondent and the first respondent forwarded the letter, dated 31.03.2011. The first respondent also sent reminders to the second respondent. The second respondent on 10.06.2015 replied stating that the petitioner resigned from job and the same is not eligible to be accounted. But the petitioner denied the fact that he had resigned and the petitioner has written letters to the second respondent on 23.12.2015, reiterating that the petitioner has not resigned the job and the pension contribution may be transferred. The contention of the petitioner is that the petitioner made request, vide letter, dated 12.04.2019, with the first respondent that the petitioner is ready to make payment of the pension contribution, etc., for the aforesaid period instead of the second respondent and therefore, the said period could be accounted for pension. In fact, the first respondent University Statutes provide for the same, vide Para XVIII, 4(a) (b) (c) of Chapter VI.

4. The contention of the petitioner that the respondent vide letter, dated 08.06.2019, informed the petitioner that the service with second respondent is not a Teaching Job and hence, the same cannot be accounted and the learned Counsel for the petitioner submitted that the same is incorrect the correct proposition is that the respondents ought to see whether it is a pensionable post or non-pensionable post.

5. However vide proceedings, dated 26.07.2019, the first respondent conferred pension and other retirement benefits without counting the said period. In spite of several reminders to both the respondents, the petitioner was not able to get any favourable answer from the respondents.

6. During the course of hearing the petitioner submitted that if the respondents are directed to consider as per the letter, dated



13.03.1996, in Reference No.9596 / H2 / 95, the same would be sufficient. In the above circular, dated 13.03.1996, it has been stated as under:

"The kind attention of those teachers who would like their eligible past services put in such of those institutions as indicated in our statutes be merged with that of the University, is drawn to our University statutes chapter VI, para XVIII 4(a), (b) and (copy enclosed).

The syndicate in its meeting held on 24.02.1996 has also considered the matter and resolved that the pensionary liabilities for past services should be paid/transferred from the agencies of their previous employment within a period of three years since joining the University or one year from 24.02.1996 which ever is later, failing which 12% compound interest shall be charged on the amount of pension liability due in respect of past services.

Accordingly, the teachers are requested to arrange for early compliance in the matter.

Further, the teachers are requested to arrange for the transfer of necessary service Register (in original) with regard to the past services to this office before or at the time of remittance of the pensionary liability."

7. Therefore, this Court is directing the first respondent to consider the claim of the petitioner in the light of the circular read with Chapter VI, para XVIII 4 (a), (b) and (c) and pass an order. The petitioner submitted that he is willing to deposit the employee's contribution for calculating the said period, since the second respondent service is a pensionable service. Therefore, the respondents are directed to accept the claim of the petitioner for depositing the amount for the said period as per circular read with Chapter VI, para XVIII 4 (a), (b) and (c) and thereafter, pay the eligible pension amount.

8. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Tmg



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 Registrar,
Bharathidasan University,
Thiruchirappalli.
- 2.The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 600 005.

W.P. (MD) No.4705 of 2022
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MGJ(20.04.2022) 4P 3C