



W.P.(MD) No.5183 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.5183 of 2020 and
WMP Nos.4515 & 4516 of 2020

B.Sitharthan

... Petitioner

-VS-

1.The Vice Chancellor,
Tamil University
Thanjavur.

2.The Registrar,
Tamil University
Thanjavur.

3.The Assistant Director
Local Fund Audit
Tamil University
Thanjavur.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writs of Certiorarified Mandamus to call for the records comprised in Na.Ka.A1/1085/2018 dated 13.06.2019 and the consequential order in Na.Ka.A3/2418/2019 dated 28.06.2019 issued by the 2nd respondent



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and quash the same as arbitrary, illegal and contrary to principles of rule of law and consequently direct the respondents to release Rs.7,14,668/- deducted towards excess pay liable to be paid to the petitioner as gratuity.

For Petitioner : Mr.K.Prabhakar
For Respondents : Mr.Ragatheeshkumar for R1& R2
for M/s.Isaac Chambers
Mr.S.P.Maharajan for R3

ORDER

Challenging the impugned orders dated 13.06.2019 and 28.06.2019 and for a direction to the respondents to release the deducted amount towards excess pay to the petitioner, this writ petition has been filed.

2.The case of the petitioner in nutshell is as follows:

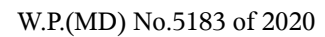
The petitioner joined in the respondent University on 16.08.1990 as Assistant Computer programmer on consolidated pay. Subsequently his services were regularised with basic pay of Rs.1600-2660. While so on 01.10.1996, the Syndicate passed a resolution thereby reducing the pay of



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the petitioner. Therefore, the petitioner filed writ petition in WP No. 12719/1996 and the said writ petition was disposed of and the petitioner was paid with the original pay. Subsequently, the petitioner was promoted as Selection Grade Assistant Computer programmer on 01.10.1999 and for 18 years he held the said post and in the year 2018, he was promoted as Computer programmer. Since there is no rule with regard to the petitioner's post, the promotion was given as per syndicate resolution as there was no rules prevailing at that point of time. On 01.06.2018, the petitioner made a representation to the respondents seeking revision of basic pay. However, his representation was rejected by re-fixing the scale of pay for the period from 03.05.2018 till 30.06.2019. The said order further reads that on the basis of the audit objections, the excess salary paid to the petitioner from 01.10.1992 to 02.05.2018 was sought to be deducted, challenging which, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that when there is no rule for the post occupied by the petitioner, the promotion and pay was fixed by the resolution of the syndicate. When that be so, the





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entire period ie., till the retirement, is not sustainable. Therefore, the impugned order is set aside and the respondents are directed to hear the petitioner and pass appropriate orders. The petitioner shall treat the impugned order as a show cause notice to make necessary objections within a period of six weeks from the date of receipt of a copy of this order and on receipt of the objections by the petitioner, the respondents shall conduct an enquiry and pass appropriate orders and if any excess amount is due to the petitioner, the same shall be disbursed to the petitioner.

6. With the above observation, the writ petition stands disposed of. No costs. Consequently connected Miscellaneous Petitions are closed.

12.12.2022

Index : Yes/No
Internet : Yes
RR
To
The Assistant Director
Local Fund Audit
Tamil University
Thanjavur.



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M.DHANDAPANI, J.

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