



W.P.(MD)No.6150 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.6150 of 2016

B.Raja

... Petitioner

Vs.

The Registrar,
Madurai Kamaraj University,
Madurai.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of ***Certiorarified Mandamus*** , calling for the records pertaining to the order passed by the respondent in his proceedings in Memo.No. Estt.I/Admn.6/MKU/JSC/APPT/2012 dated 13.12.2012 and the consequential fixation order passed by the respondent in Memo.No.Estt.I/Admn.2/F.P/2014 dated 24.05.2014 and quash the same in so far as the denial of monetary benefits from 14.11.2005 to 28.09.2012 and consequently direct the respondent to settle the monetary benefits with all consequential benefits.

For Petitioner : Mr.V.Paneer Selvam

For Respondent : Mr.R.M.Makesh Kumaravel



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ORDER

This Writ petition has been filed for issuance of ***Certiorarified Mandamus***, to quash the order passed by the respondent in his proceedings in Memo.No. Estt.I/Admn.6/MKU/JSC/APPT/2012 dated 13.12.2012 and the consequential fixation order passed by the respondent in Memo.No.Esst.I/Admn.2/F.P/2014 dated 24.05.2014 and in so far as the denial of monetary benefits from 14.11.2005 to 28.09.2012 and also sought for a consequential direction to the respondent to settle the monetary benefits with all consequential benefits.

2. The brief facts as stated in the affidavit are that the petitioner was selected and appointed as Technician in DNES Research Scheme under Action Development on Biomass Gasification for Mechanical Electrical and thermal application under the supervision of School of Energy of the respondent/Madurai Kamaraj University. The selection process was initiated through paper advertisement, dated 23.06.1987 and the petitioner has joined in service on 29.06.1987 in the scale of pay of Rs.610-30-760 + admissible allowances. Since the



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petitioner has served for more than 10 years the petitioner has requested to regularize the petitioner's service. The petitioner and other persons have approached the Principal Bench of this Court, by way of filing writ petition in W.P.Nos.18269 & 18271 of 1998 for Writ of Mandamus to regularize the service with continuity of service and attendant benefits and the same was disposed on 16.10.2003, with direction to regularize as and when the vacancies arise.

3. The contention of the petitioner is that the petitioner's juniors were regularized on 14.11.2005. There were several representations, like the petitioner and hence, a complaint was preferred to the Registrar, hence Justice. K. Sampath, was appointed as Commissioner to file a report on that issue. Thereafter, the petitioner was regularized as Lab Assistant, but the petitioner was not willing to work as Lab Assistant. Subsequently, the petitioner was appointed as Clerk, vide letter, dated 13.12.2012, wherein it is stated that the petitioner was absorbed as Clerk from 14.11.2005 with monetary benefits from the date of special syndicate i.e., on 29.09.2012.



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4. The claim of the petitioner is that, he is entitled to monetary benefits from the date of original absorption i.e., 14.11.2005. Hence, the petitioner has preferred this Writ Petition.

5. The respondents have filed counter affidavit and stated that the petitioner has absorbed as per letter, dated 13.11.2012, by granting service benefits from 2005 and the monetary benefits was granted only from 2018 onwards. Hence, the petitioner is not entitled to monetary benefits from the year 2005 onwards. Hence, the respondents have prayed to dismiss the writ petition.

6. Heard Mr.V.Paneer Selvam, learned counsel appearing for the petitioner and Mr.R.M.Makesh Kumaravel, learned counsel appearing for the Respondent. Perused the material documents available on record.

7. It is evident from the appointment, dated 29.06.1987 the petitioner was appointed under a scheme. Any scheme employee is not



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entitled to claim any regularization. However, the petitioner and others have filed W.P. Nos. 18269 and 18271 of 1998 demanding regularization and this Court on 16.10.2003 had passed the following orders:

...

“3. Keeping in view the observations made in the said case, as in the present case, there shall be a similar direction. The respondents is accordingly directed to regularize the service of the petitioners as and when vacancies arise and till then the petitioners shall continue as Lab Assistants. If goes without saying that the question of regularization should be considered as expeditiously as possible as and when vacancies arise.”

Based on the order, the respondent has granted the post of Lab Assistant. Since the petitioner was not granted the post, as the petitioner wish the petitioner has preferred a Contempt Petition in Cont.P.No.915 of 2004 and this Court vide order, dated 27.01.2006, has held as under:

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“Heard the learned counsels appearing for



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both the parties. The learned counsel appearing for the respondents has submitted that the petitioner being a full qualified person, he has given a job on contract basis, which he has completed and an amount of Rs.60,000-has been on three different occasions. It is further stated that in view of his qualification, the petitioner is not willing to work as a Lab Assistant on salary basis but he is prepared to take up matters on contract basis. But, such works are not available at present, the learned counsel for the respondents further submitted that there is necessity for appointment of a person to look after the maintenance of building on adhoc-basis and if the petitioner accepts such posting, he can be given the posting to look after the maintenance of the building and thereafter, if regular vacancy would arise, the petitioner can be absorbed. Learned counsel for the petitioner submits that he is willing to accept such offer.

2. In view of such a statement by the learned counsel for both the parties, the Contempt Petition is closed and the petitioner shall meet the Registrar for the purpose of giving an appropriate post for maintenance of building on an adhoc basis. I place on record my appreciation for the fair manner in which



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submissions have been made by learned counsels for both the parties. ”

8. After the aforesaid order, the petitioner has submitted a representation, dated 14.10.2011 seeking promotion to the post of Senior Technician and the same was declined by the respondent stating that the petitioner is eligible for only “Technician” and not “Senior Technician”, since “Senior Technician” post a promotional post.

9. Thereafter, in order to resolve some issues, Justice.K.Sampath was appointed as 'Commissioner' and based on the report, the respondent has initiated action to regularize the petitioner and the regularization was granted on 13.11.2012 with specific conditions. The specific conditions are stated as under:

...

“In partial modification to this office earlier memo cited (3) above, Thiru.B.Raja, CPCLR is absorbed as Clerk w.e.f., 14.11.2005 with monetary benefit from the date of the Special Syndicate.”



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10. The absorption was granted from 14.11.2005 only, but the respondent has also stated that the monetary benefits will be paid, with the effect from the date of Special Syndicate i.e., on 29.09.2012. The respondent had taken a policy decision to grant absorption and grant service benefits from 14.11.2005 (the petitioner's juniors were regularized on 14.11.2005). And it has also been resolved to pay the monetary benefits from the date on which the resolution was passed by the Special Syndicate and this policy decision is based on the financial implications of the respondents. Therefore, this Court is of the considered opinion that there is no infirmity in granting monetary benefits from the date of resolution and hence petitioner is not entitled to any monetary benefits from 14.11.2005.

11. The petitioner submitted that the counter filed by the respondent had stated that the petitioner was engaged for a job for maintaining building (Electrical Works) and engaged the said work under consolidated pay of Rs.15,000/-. Even though the respondent had averred



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so, they have not paid Rs.15,000/- from February 2006. The same was refuted by referring to the petitioner's application dated 14.10.2011, wherein the petitioner has stated that the petitioner was working under consolidated pay of Rs.15,000/-per month. But the petitioner alleges that the respondent have not paid the said Rs.15,000/- for some months. Therefore, this Court is of the considered opinion that the petitioner is entitled for a sum of Rs.15,000/- from February 2006 as stated in the counter affidavit in paragraph No.7. The same shall be paid, within a period of four weeks from the date of receipt of a copy of the order.

12. The learned counsel appearing for the petitioner submitted that he attained superannuation on 31.05.2006 and he was not paid Earned Leave for a period of 10 months and Unearned leave for a period of 3 months and therefore this is directing the respondents to pay all the eligible benefits including Earned Leave and Unearned Leave as per Rules.

13. As far as the main prayer is concerned, the Writ Petition



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stands dismissed. However, the respondents shall comply with the other reliefs granted to the petitioner. No costs.

Index : Yes / No
Internet : Yes
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S.SRIMATHY, J

ksa

**Order made in
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