



WEB COPY

W.A.No.214:



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2023

CORAM :

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ**

Writ Appeal No.2142 of 2023

Dr.C.Shanmugam, Professor (Linguistic) (Retired),
Bharathiyar University, Coimbatore - 641 046.

.. Appellant

Versus

1. Government of Tamil Nadu,
Represented of Principal Secretary to Government,
Higher Education Department,
Secretariat, Chennai - 600 009.

2. The Vice Chancellor,
Bharathiyar University,
Coimbatore - 641 046.

3. The Registrar / Finance Control Officer,
Bharathiyar University,
Coimbatore - 641 046.

..

Respondents

Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 05.11.2019 passed by the learned Judge in WP.No.17482 of 2019.

For Appellant : Mr.P.Murali

For R1 : Mr.S.Silambanan, AAG Assisted by
Mr.RU.Dinesh Rajkumar,
Additional Government Pleader



For R2 & R3

: Mr.K.Shakesphere

JUDGMENT

WEB COPY (Judgment of the Court was delivered by R. MAHADEVAN, J.)

This writ appeal is directed against the order passed by the learned Judge in W.P.No.17482 of 2019, on 05.11.2019.

2.According to the appellant, he joined the service as Lecturer in Linguistic Subject in the Institute of Development of Karnataka Studies, Mysore on 16.06.1973, as per letter No.D6-424/72-73 dated 13.01.1973. Thereafter, he was transferred to Bharathiyar University, Coimbatore, Tamil Nadu. Consequently, he was relieved from Mysore University on 29.03.1987 and joined duty as Supernumerary Reader in Linguistic in Bharathiyar University, Coimbatore, on 30.03.1987, ie., on the next day itself without any break in service. Later on, he served as Associate Professor and Professor in Linguistic and retired from service on 31.05.2007 on attaining the age of superannuation. The Last Pay Certificate from Mysore University was received only on 30.09.2015, after a lapse of 28 years. Upon receipt of the same, the appellant made repeated representations on 01.10.2015, 28.03.2016, 27.07.2016 and 06.04.2019 to the respondents requesting to grant pay and allowances depending upon the last pay he received from Mysore University, but the same were not considered.



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3. In the circumstances, the appellant has filed W.P.No.17482 of 2019 praying for a Mandamus to the respondents to consider his claim for service and monetary benefits payable to him, in the light of his representations dated 01.10.2015, 28.03.2016, 27.07.2016 and 06.04.2019. However, by order dated 05.11.2019, the learned Judge dismissed the writ petition on the ground of delay and laches on the part of the appellant. Aggrieved over the said order, the appellant has come up with this writ appeal.

4. The learned counsel for the appellant submitted that though the appellant was transferred from Mysore University and joined duty in Bharathiyar University, Coimbatore on 30.03.1987, he was paid only a sum of Rs.1,200/- in the scale of pay of Rs.1200-1900 and no other benefit was given to him, for want of last pay certificate from Mysore University. It is further submitted that the Last Pay Certificate and Service Certificate were received from the University of Mysore only on 30.09.2015 and thereafter, the appellant made representations requesting the respondent authorities to grant service and monetary benefits payable to him and hence, there is no delay and laches on the part of the appellant in approaching the authorities. However, the learned Judge erred in dismissing the writ petition filed by the appellant.



5.Heard the learned Additional Advocate General appearing for the first respondent and the learned counsel appearing for the respondents 2 and 3 and also perused the materials available on record.

6.Before the writ court, the appellant sought a direction to the respondent authorities to consider his claim for service and monetary benefits, based on the last pay certificate obtained from the Mysore University. The learned Judge has dismissed the said writ petition on the ground of delay and laches, whereas the fact remains that the last pay certificate of the appellant was issued by the Mysore University only on 30.09.2015; and it was stated in the communication dated 30.09.2015 sent by the said University that the service register of the appellant was not traceable and hence, the Service Certificate and Last Pay Certificate have been forwarded to enable him to have his pay re-fixed in the post of Reader and for claiming revised pensionary benefits. Thereafter, without any delay, the appellant has made several representations to the respondents periodically, which are made available in the typed set of papers, claiming service and monetary benefits payable to him. Hence, this court is of the view that the delay as pointed out by the learned Judge, is not attributable on the part of the appellant. As such, the order of the learned Judge is liable to be set aside and is accordingly set aside.



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7. Taking note of the length of service rendered by the appellant, this Court deems it fit to direct the respondent authorities to consider the representation of the appellant dated 01.10.2015 and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the appellant. Such an exercise shall be completed within a period of four weeks from the date of receipt of a copy of this judgment.

8. The writ appeal stands allowed in the above terms. There shall be no order as to costs.

[R.M.D., J.] [M.S.Q.,

J.]

30.10.2023

Index : Yes / No
Internet : Yes / No
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To

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2. The Vice Chancellor,
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