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W.P.No.24015 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.24015 of 2021

and

W.M.P.No.25320 of 2021

Dr.P.Manju Pushpa (F/44 years)

W/o.A.Senthil Kumar

No.17, Nalvar Nagar South

Kalveerampalayam

Bharathiar University Post

Coimbatore 46.

... Petitioner

/Vs/

1.Bharathiar University Rep. by its Registrar
Coimbatore 641 046

2.The Vice Chancellor
Bharathiar University
Coimbatore 641 046

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records relating to the order of the first Respondent made in No.E7/CAS-Past Service/2021/18709-8-3 dated 26.08.2021 to quash the same consequently direct the Respondents to forthwith grant CAS benefits as and when the same fell due with all accrued service benefits thereto.



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For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.K.Shakesphere (for R1 & R2)

ORDER

This Writ Petition has been filed for issuance of Writ of Certiorarified Mandamus to call for the records relating to the order of the first Respondent made in No.E7/CAS-Past Service/2021/18709-8-3 dated 26.08.2021 to quash the same consequently direct the Respondents to forthwith grant CAS benefits as and when the same fell due with all accrued service benefits thereto.

2.The Petitioner claims that she is entitled for Career Advancement Scheme (CAS) under UGC Regulation on completion of four years of service. The Petitioner claims her past services to be included for Career Advancement Scheme (CAS), but the same was denied by stating that during relevant period, she was working on consolidated pay. Hence the Petitioner has filed this Petition seeking to quash the impugned order and for consequential direction.

3.The Petitioner was appointed as Assistant Professor in the Department of Physical Education in Bharathiyar University and she was appointed to the



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said post with effect from 25.08.2014. Previously in the year 2008, she was appointed as a Lecturer in the Department of Physical Education in the very same University for consolidated pay of Rs.15,000/- per month and she continued till 28.01.2009. The Petitioner was once again selected to the said post with effect from 02.02.2009 on a revised consolidated pay of Rs.32,000/- per month, without any annual increment. The said emolument is fixed for regular employees as per UGC norms as scale of pay. After joining in the year 2014 in the regular vacancy and completing four years of service, the Petitioner has applied under the Career Advancement Scheme (CAS). As she had a previous service of six years and twenty eight days between 28.01.2008 and 24.08.2014, before her regular appointment.

4.Heard Mr.L.Chandrakumar, learned counsel appearing on behalf of the Petitioner and Mr.K.Shakesphere, learned counsel appearing on behalf of Respondents 1 & 2.

5.Mr.L.Chandrakumar, learned counsel appearing on behalf of the Petitioner submitted that as per the Regulation 10.0 of UGC, the past services of a teacher should be counted for Career Advancement Scheme (CAS). For the



sake of clarification, the above rules is extracted as under:

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“10.0.Counting of past services for direct recruitment and promotion under CAS

10.1.Previous regular service, whether national or international, as Assistant Professor, Associate Professor or Professor or equivalent in a University, College, National laboratories or other scientific/professional organizations such as the CSIR, ICAR, DRDO, UGC, ICSSR, ICHR, ICMR, DBT, etc., should counted for direct recruitment and promotion under CAS of a teacher as Assistant Professor, Associate Professor, Professor or any other nomenclature these posts are described as per Appendix III-Table No. II provided that:

(a)The essential qualifications of the post held were not lower than the qualifications prescribed by the UGC for Assistant Professor, Associate Professor and Professor as the case may be.

(b)The post is/was in an equivalent grade or of the pre-revised scale of pay as the post of Assistant Professor (Lecturer) Associate Professor (Reader) and Professor.

(c)The candidate for direct recruitment has applied through proper channel only.

(d)The concerned Assistant Professor, Associate Professor and Professor should possess the same minimum qualifications as prescribed by the UGC for appointment to the post of Assistant Professor, Associate Professor and



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Professor, as the case may be.

(e)The post was filled in accordance with the prescribed selection procedure as laid down in the regulations of University/State Government/Central Government/concerned Institutions for such appointments.

(f)The previous appointment was not as guest lecture for any duration, or an adhoc or in a leave vacancy of less than one year duration. Adhoc or temporary service of more than one year duration can be counted provided that:

(i)the period of service was of more than one year duration;

(ii)the incumbent was appointed on the recommendation of duly constituted Selection Committee: and

(iii)the incumbent was selected to the permanent post in continuation to the adhoc or temporary service, without any break.

(g)No distinction should be made with reference to the nature of management of the institution where previous service was rendered (private/local bod/Government), was considered for counting past services under this clause.”

6.The University itself has given a Service-cum-No Objection Certificate on 05.08.2014, by recognising the Petitioner's services in the University from



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28.01.2008 to 05.08.2014. After she joined the regular course her probation was also declared. As per the above stated regulation, the adhoc services for more than one year duration can be counted, if the period of service was more than one year and the incumbent has joined on the recommendation of duly constituted selection committee.

7.The Respondent University has adopted the UGC regulation and even in the advertisement calling for application to fill up the vacancies arose in the year 2014, it was made clear that the selection process is going to be followed only in accordance with the UGC regulations. Having accepted her past services between the period from 28.01.2008 to the date of her application for the post of regular vacancy, the Respondents have denied her entitlement of past services to be included for the purpose of Career Advancement Scheme (CAS).

8.Even in the counter affidavit of the Respondents, particulars of Petitioner's post service have been clearly mentioned. However, it is submitted by the Respondents that as per the UGC regulation, 2018, the past service can be considered only if the person was drawing emoluments equal to that of the regular cadre in the same post. G.O.Ms.No.374 Higher Education (H1)



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Department, dated 14.11.2006, reads as under:

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“Previous service, without any break as a Lecturer or equivalent in a University, College, national Laboratory or other scientific organizations, e.g. CSIR, ICAR, DRDO, UGC, ICSSR, ICHR and as a University Grants Commission, Research Scientist should be counted for placement of Lecturer in Senior Scale/Selection Grade”

9.The revised regulation of the UGC does not speak anything about the emoluments as stated by the Respondents in their counter affidavit. The Petitioner's service were more than one year during her adhoc appointment and she has been appointed to the said post on the recommendation of the duly constituted Selection Committee. Even though in the service details furnished by the Respondents, it is shown that the Petitioner was given with intermittent one or two days break and every time she got ousted. It was submitted by the first Respondent that the intermittent break is to overcome certain technical issues and it is not actual break.

10.The one and only point on which the Petitioner's past service was rejected is that her services were not continuous and there was break of service; but the very same respondents have issued certificate covering relevant period



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that her service were continuous, which reads as under:

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“Certified that Dr.P.Manju Pushpa is an employee of Bharathiar University as Lecturer (on contract basis) in the Department of Physical Education from 28.01.2008 and her post has been re-designated as Assistant Professor with effect from 28.02.2008 to till date.”

11.The above certificate of the Respondents would show that though the Petitioner was working on contract basis, she was working continuously from 28.01.2008 till 05.08.2014 (which is the date of the certificate).

12.Hence the University is estopped from denying its own document. Since the Petitioner has produced materials to show that she was in continuous services, she is entitled to add those period viz., previous service of six years and twenty eight days, (28.01.2008 to 24.08.2014), for the purpose of Career Advancement Scheme (CAS).

13.In the result, this Writ Petition is allowed and the impugned order of the first Respondent made in No.E7/CAS-Past Service/2021/18709-8-3 dated 26.08.2021 is hereby quashed and the Respondents are directed to grant CAS benefits as and when the same fell due with all accrued service benefits,



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forthwith to the Petitioner. Consequently, connected Miscellaneous Petition is closed. No costs.

19.10.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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To

1.The Registrar,
Bharathiar University
Coimbatore 641 046

2.The Vice Chancellor
Bharathiar University
Coimbatore 641 046



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R.N.MANJULA, J.

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