



W.P(MD)No.11475 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.11475 of 2023

and

W.M.P(MD)Nos.9961, 9962 & 9964 of 2023

C.Karuppiah

... Petitioner

Vs

The Registrar, i/c,
Madurai Kamaraj University,
Palkalai Nagar,
Madurai – 625 021.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the respondent in Ref.MKU/SO(P&D)/ICC/2023 dated 20.04.2023, insofar as withholding the retirement benefits of the petitioner, quash the same and consequently direct the respondent herein to disburse entire retirement benefits, provident fund, gratuity and monthly pension from 1.4.2023 together with interest at 12% for the delay caused on the part of respondent.



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W.P(MD)No.11475 of 2023

For Petitioner : Mr.G.Thalaimutharasu

For Respondent : Mr.T.Sakthikumaran
Standing Counsel

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Standing Counsel appearing for the respondent University.

2. The petitioner was holding the post of Professor in Sociology in the respondent University. He was also Head of the Department. The petitioner came to be implicated in Crime No.8 of 2023 on the file of All Women Police Station (AWPS), Samayanallur based on the complaint of a girl student. The University has informed the petitioner by the impugned communication dated 20.04.2023 that disbursing his terminal benefits will be considered after the criminal case attains finality. Challenging the said communication, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.



W.P(MD)No.11475 of 2023

WEB COPY

4. The learned Standing Counsel appearing for the respondent submitted that a girl student has levelled very serious allegations of sexual harassment and that has led to registration of the criminal case against the petitioner. For this reason, the stand set out in the impugned communication has to be sustained. He called upon this Court to dismiss the writ petition.

5. I carefully considered the rival contentions and went through the materials on record.

6. It is not in dispute that the petitioner reached the age of superannuation on 31.03.2023. On the said date, no complaint was pending against the petitioner. He had not been suspended. No order was passed by the University retaining the petitioner in service. On the other hand, the following communication dated 29.03.2023 was issued. It reads as follows:



W.P(MD)No.11475 of 2023

WEB COPY



MADURAI KAMARAJ UNIVERSITY

(University with Potential for Excellence)
Re-accredited by NAAC with 'A++' Grade in the 4th Cycle



Dr.K.Sadasivam
Registrar (I/c)

Palkalai Nagar, Madurai - 625 021,

Tamil Nadu, India

Date: 29.03.2023

Ref: Estt - II / TV0663/ 2023

To

Dr. C. Karupiah
Professor
Department of Sociology
School of Social Sciences
Madurai Kamaraj University
Madurai - 625 021

Sir,

Sub: Estt II - Retirement on attaining the age of 60 years - Continuance in service till the end of the academic year 2022-2023 on Terms and Conditions - Orders issued Reg. 62/66/2023

I am, by direction, to inform you that you are retired from the service of this University with effect from 31.05.2023 after attaining the age of 60 years as your date of birth is 02.03.1963.

Since, you are attaining the age of 60 years in the middle of the academic year 2022-2023, you are permitted to continue in service till the end of the academic year, i.e., upto 30.06.2023 on terms and conditions as follows:

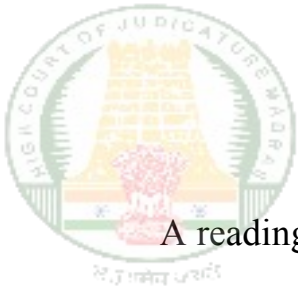
1. As per rules, the continuance of your service period between the superannuation and the end of the academic year (i.e., 30th June 2023) is not included for the qualifying service since the above service period comes after the completion of the age of 60 years (The retirement age is 60 years).
2. In this period, the salary will be paid in such a manner which does not exceed the last month salary on superannuation.
3. Further, no leave is credited for the re-employment period and not eligible to take any Leave viz., Medical Leave, Earned Leave and Special Casual Leave.

You will be relieved from the services of this University with effect from the afternoon 30.06.2023.


REGISTRAR, IC

Copy to:

1. The Vice-Chancellor's office
2. The Registry's Office
3. The S.O. Section
4. The F.O. Office
5. Pension Section
6. Finance (Advance) Section
7. Finance (P.F.) Section
8. Establishment Section - IV
9. M & E Section
10. Research Section
11. Personal File



W.P(MD)No.11475 of 2023

A reading of the aforesaid communication would indicate that the College had acknowledged that the petitioner was reached the age of superannuation on 30.06.2023 and that he stood relieved from service on the afternoon of the said date. Even if no formal order has been passed, the employer and employee relationship would get automatically snapped from the afternoon of the date on which the employee reaches the age of superannuation provided he has not been suspended from service in the meanwhile. In this case, no such adverse order was passed. Hence any development subsequent to the said date will have no consequence.

7. In this view of the matter, the order impugned in this writ petition is set aside. The respondents are directed to settle the petitioner's retirement and other terminal benefits as expeditiously as possible. This writ petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

23.06.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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