



W.A.(MD)No.1811 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.A.(MD)No.1811 of 2023

and

C.M.P.(MD)No.13788 of 2023

Dr.P.Nagoorkani

... Appellant

Vs.

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

2.The Registrar,
Madurai Kamaraj University,
Madurai – 625 021.

...Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order passed in W.P.(MD)No.16020 of 2023, dated 04.07.2023 and allow the above Writ Appeal.



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For Appellant : Dr.A.E.Chelliah,
Senior Counsel
for Mr.A.D.Ganeshamoorthi
For Respondent No.1 : Mr.D.Sadiq Raja
Additional Government Pleader
For Respondent No.2 : Mr.T.Cibi Chakkaraborthy

JUDGMENT

(Judgment of the Court was delivered by ***S.M.SUBRAMANIAM, J.***)

The Writ Appeal has been instituted challenging the order dated 04.07.2023 passed in W.P.(MD)No.16020 of 2023.

2.Regulating the service conditions of the employees are the prerogative of the employer concerned, unless such service conditions are held as violative of the statutory provisions or unconstitutional. Courts are not vested with the powers to regulate the service conditions and the power of judicial review under Article 226 cannot be expanded for the purpose of prescription of retirement age which is a policy decision to be determined by the concerned Government.



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3.As per the Government of Tamil Nadu, the retirement age for the Assistant Professors and Head of Departments in Universities are fixed as 60 years. It is not in dispute that the appellant was allowed to retire from service on attaining the age of superannuation of 60 years on 30.06.2023.

4.Learned Senior Counsel Dr.A.E.Chelliah, appearing on behalf of the appellant mainly contended that there is a discrimination in the matter of fixation of retirement age in comparison with the Government of Andhra Pradesh and West Bengal and those Governments have fixed the age of retirement for teaching staff in Universities as 65 years. Tamil Nadu Government being a Welfare State is expected to adopt the said policy for the benefit of the teaching staff in colleges and Universities.

5.It is very hard to accept the arguments of the learned Senior Counsel. If any direction is issued to enhance the retirement age, it would stand beyond the scope of the judicial review. Prescription of age, educational qualification and other criterias for appointment are to be fixed by the University by following the procedures as contemplated under the statutes and Rules in force.



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6. Therefore, we do not find any infirmity in respect of the findings made by the learned Single Judge in the writ petition. The learned Senior Counsel appearing on behalf of the appellant urged us by stating that the representation submitted by the appellant before the Government in this regard is pending for about 1 ½ years. It is for the petitioner to pursue the same before the Government either through himself or through Service Associations or otherwise. However, the High Court cannot suggest that the age of retirement has to be enhanced or otherwise, which is the prerogative of the employer concerned. Thus, we confirm the order passed in W.P.(MD)No.16020 of 2023 dated 04.07.2023.

7. Learned Senior Counsel brought to our notice that the terminal and retirement benefits due to the appellant is yet to be settled.

8. In this regard, the respondents are directed to settle the retirement benefits due to the appellant if there is no other impediment, as expeditiously as possible without causing any undue delay.



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9. Accordingly, the Writ Appeal stands dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(S.M.S., J.) & (V.L.N., J.)

10.10.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

MR

To

The Principal Secretary to Government,
Higher Education Department,
Government of Tamil Nadu,
Secretariat,
Chennai – 600 009.



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S.M.SUBRAMANIAM, J.

AND

V.LAKSHMINARAYANAN, J.

MR

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