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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos.2781, 1765 & 1766 of 2016

and

W.M.P(MD)Nos. 1529, 1531, 2469 & 2470 of 2016

W.P.(MD)No.2781 of 2016

B.Zahir Hussain

... Petitioner

Vs.

The Registrar,
Madurai Kamaraj University,
Madurai.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a 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. 2/F.P/2014, dated 24.05.2014 and quash the same in so far as the denial of monetary benefits from 14.08.2008 to 28.09.2012 and consequently direct the respondent to settle the monetary benefits as per the regularization order, dated 31.01.2013 with all consequential benefits.



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W.P.(MD)No.1765 of 2016

S.Manickavasagam

... Petitioner

Vs.

The Registrar,
Madurai Kamaraj University,
Madurai.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a 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. 2/F.P/2014, dated 24.05.2014 and quash the same in so far as the denial of monetary benefits from 03.07.2008 to 28.09.2012 and consequently direct the respondent to settle the monetary benefits as per the regularization order, dated 31.01.2013 with all consequential benefits.

W.P.(MD)No.1766 of 2016

P.Sundarapandi

... Petitioner

Vs.

The Registrar,
Madurai Kamaraj University,
Madurai.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the



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order passed by the respondent in his proceedings 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 14.08.2008 to 28.09.2012 and consequently direct the respondent to settle the monetary benefits as per the regularization order, dated 31.01.2013 with all consequential benefits.

In all the Writ Petitions:

For Petitioners : M/s.V.Paneer Selvam

For Respondent : Mr.T.Sakthi Kumaran

COMMON ORDER

The issue raised in all the three writ petitions are same and similar and hence all the three writ petitions are taken up and a common order is passed.

2(i). W.P.(MD)No.2781 of 2016 has been filed by B.Zahir Hussain to quash the impugned proceedings in Memo.No.Estt.I/Admn.2/F.P/2014, dated 24.05.2014 in so far as the denial of monetary benefits from 14.08.2008 to 28.09.2012 and consequential direction to the respondent to settle the monetary benefits as per the regularization order, dated 31.01.2013 with all consequential benefits.



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2(ii). W.P.(MD)No.1765 of 2016 has been filed by S.Manickavasagam to quash the impugned order passed by the respondent in his proceedings in Memo.No.Estt.I/Admn.2/F.P. /2014, dated 24.05.2014 in so far as the denial of monetary benefits from 03.07.2008 to 28.09.2012 and consequential direction to the respondent to settle the monetary benefits as per the regularization order, dated 31.01.2013 with all consequential benefits.

2(iii). W.P.(MD)No.1766 of 2016 has been filed by P.Sundarapandi to quash the impugned order passed by the respondent in his proceedings in Memo.No.Estt.I/Admn.2/F.P. /2014, dated 24.05.2014 in so far as the denial of monetary benefits from 14.08.2008 to 28.09.2012 and consequential direction to the respondent to settle the monetary benefits as per the regularization order, dated 31.01.2013 with all consequential benefits.

3. The brief facts as stated by the three writ petitioners are that the three petitioners were selected and appointed as Lab Technician, Clerk and Clerk, respectively in the year 1998 and the appointment is through Employment



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exchange. Since the petitioners' have served for more than 10 years the petitioners have requested to regularize the petitioners' service. But the respondents had regularized their juniors in the year 2005 and some of them had marched further and got promotion. But the petitioners were regularized only in the year 2008. There were several complaints in the regularization in the university, hence Justice. K. Sampath, was appointed as Commissioner into the illegality and was mandated to file a report. The petitioners and other persons had approached the Principal Bench of this Court, by way of filing writ petition in W.P.Nos.12352 & 12235 of 2011 to regularize the service of the petitioners. Pending writ petitions the respondents had regularized the service of the petitioners from 2008 onwards, hence the petitioners were insisted to withdraw the writ petitions. Thereafter the petitioners were promoted as Assistant but the petitioners' juniors were promoted as Superintendent. Hence the petitioners submitted a representation to promote as Superintendent from the date on which the petitioner's juniors were promoted.

4. The claim of the petitioners is that, they are entitled to monetary benefits from the date of original absorption i.e., 14.08.2008, 03.07.2008 and 14.08.2008 respectively. But to the shock of the petitioners the respondents had



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passed an order dated 24.05.2014 restricting the monetary benefits with effect from 29.09.2012 i.e. from the date of the Special Syndicate. Hence, the petitioners have preferred these Writ Petitions.

5. The respondents have filed counter affidavit stating that the petitioners were appointed to meet the urgent contingencies in completing the time bound work during the examination and paper valuation etc. as casual labourers and that too on daily wage basis, as and when required. The petitioners were not even appointed under 10(a)(i) but only as casual daily wages or consolidated pay, hence there is no question of regularization. The petitioners had not produced any record to show they were appointed from 1998 onwards. The allegation that the respondents had regularized the juniors by pick and choose method is denied as false. In the year 2005 the respondents had called for applications from the qualified persons working in the University as Consolidated Pay Casual Labourer (CPCLR) and Casual Labourer (CLR) who had completed 10 years to make regular appointment as clerks against the sanctioned vacant post, after conducting written test and selection, appointments were made as Clerks from 14.11.2005. As the petitioners are working from 1998 onwards but



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has not completed 10 years as in 2005 the petitioners are not eligible to appoint on 14.11.2005 along with other selected candidates. The petitioners had filed W.P. (MD)No.12236 of 2011 batch for Mandamus to regularize their service and this Court vide order dated 22.02.2013 had directed the petitioners to submit representation in respect of the claim of promotion as Superintendent on par with clerks appointed on 14.11.2005 and directed the respondents to consider and pass orders. In the meanwhile report was received that certain persons dis not complete 10 years who were appointed as clerks on 14.11.2005, hence Justice K.Sampath Committee was appointed and the Committee had furnished report dated 16.09.2012, wherein it was suggested that the petitioners were appointed from 1998 onwards and they may be considered for appointment on regular basis from 14.08.2008. The Committee report was approved by the Syndicate at its Special Meeting held on 29.09.2012 and hence the order dated 31.01.2013 was issued and the petitioner was appointed as clerk from 14.08.2008 and the petitioner was granted promotion as Assistant vide order dated 01.02.2013.

6. Based on FR 27(17) the petitioner was appointed on completion of 10 years from 14.08.2008, but the petitioner is entitled to monetary benefits only



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from the actual date of joining / assumption of charge in the post of Clerk i.e. from 29.09.2012 onwards (the date on which the approval of appointment by the Special Syndicate). The petitioners had worked in consolidated pay from 14.08.2008, 03.07.2008 and 14.08.2008 respectively to 28.09.2012 and had drawn the pay attached to the cadre of Consolidated Pay Casual Labourer (CPCLR) and Casual Labourer (CLR). The petitioner did not discharge the duties and responsibilities of the clerk post during the period from 14.08.2008, 03.07.2008 and 14.08.2008 respectively to 28.09.2012 and hence the petitioners are not entitled to the salary attached to the post of clerk from 14.08.2008, 03.07.2008 and 14.08.2008 respectively to 28.09.2012. Hence the order is passed notionally fixing the pay from 14.08.2008, 03.07.2008 and 14.08.2008 respectively in the post of clerk and notionally granting annual increments and granting monetary benefits from 29.09.2012 the date of approval of appointment by the Special Syndicate, which is valid in law. Hence, the respondents have prayed to dismiss these writ petitions.

7. Heard Mr.V.Paneer Selvam, the Learned counsel appearing for the petitioner and Mr.T.Sakthi Kumaran, the Learned counsel appearing for the



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Respondent. Perused the material documents available on record.

8. In order to resolve some issues, Justice.K.Sampath was appointed and based on the report, the respondent has taken steps to regularize the petitioners and the regularization was granted on 14.08.2008, 03.07.2008 and 14.08.2008 respectively. The absorption was granted from 14.08.2008, 03.07.2008 and 14.08.2008 respectively, 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. 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 petitioners are not entitled to any monetary benefits.

9. At this juncture the contention of the petitioner is that the respondents had not settled the monetary benefits till date, which is payable from 29.09.2012 as approved by the Special Syndicate. Therefore, this Court is directing the respondents to pay the same, if not paid.



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10. As far as the main prayer is concerned, the Writ Petition stands dismissed. However, the respondents shall comply with the direction to pay monetary benefits 29.09.2012 as approved by the Special Syndicate, if not paid.

11. The writ petition stands dismissed with direction. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
ksa

19.06.2023

To

The Registrar,
Madurai Kamaraj University,
Madurai.



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S.SRIMATHY, J

ksa

**Common Order made in
W.P.(MD)Nos.2781, 1765 &
1766 of 2016**

19.06.2023