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W.P.No.11337 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.11337 of 2021

D.Balakrishnan

...

Petitioner

/vs/

1. The State of Tamilnadu,
Rep. by its Secretary,
Higher Education Department,
St. George Fort,
Chennai – 600 009.
2. The Director,
Directorate of Higher Education,
College Road,
Chennai – 600 006.
3. The Joint Director,
Regional Directorate of Higher Education,
Coimbatore Region,
Panthayachalai,
Coimbatore – 18.
4. Sree Vasavi College,
Rep. by Secretary,
Vasavi College Post,
Erode – 638 316
Erode District.



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5. Anna University,
Rep. by its Registrar,
Adyar, Chennai – 600 020.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents 3 and 4 to send a detailed pension proposal to the first and second respondents after fixing the petitioner's date of retirement as on 13.10.2010, notionally and further to direct the first and second respondents to sanction and disburse all pensionary benefits and other retirement benefits to the petitioner within a stipulated time.

For Petitioner ... Mr.C.Kishore

For Respondents ... Mr.K.Surendran
Additional Govt. Pleader for R1 to R3

Mr.R.Baskaran for R4

Mr.Meenakshi Sundaram for R5



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ORDER

The petitioner has filed this Writ Petition seeking direction to the respondents 3 and 4 to send a detailed pension proposal to the first and second respondents after fixing the petitioner's date of retirement as 13.10.2010, notionally and further to direct the first and second respondents to sanction and disburse all pensionary benefits and other retirement benefits to the petitioner within a stipulated time.

2. The petitioner was appointed as 'Tutor' in the English Department of the fourth respondent college on 04.10.1976 and he was working there for 19 years. In the year 1995 he was appointed as Assistant Professor in English in the fifth respondent Anna University by keeping lien of one year with the fourth respondent on the strength of G.O.Ms.No.346 dated 12.06.1996.

2.1. On 27.03.1998 the petitioner's services was terminated by the fifth respondent on certain allegations. The petitioner made a request to the fourth respondent to permit him to join in his parent department but he was insisted to produce the relieving order from the fifth respondent. However, the fifth



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respondent did not issue any relieving order. On 13.10.2010 the petitioner attained the age of superannuation but he was not even permitted to retire from service in accordance with law. The petitioner made representation before the respondents to permit him to retire from service after fixing the date of retirement as 13.10.2010 and sanction and disburse all retirement and other pensionary benefits after calculating the entire qualifying service and the same was not considered.

3. Mr.C.Kishore, the learned counsel for the petitioner, submitted that the petitioner had completed 19 full years of qualifying service in the fourth respondent college and more than one year service in the fifth respondent and all together he served 20 years of qualifying years of service for getting pension; since the petitioner's representation has not been considered and he was not allowed to retire, he had lost the benefit of getting pension and hence the petitioner has filed this writ petition.

4. The unfortunate petitioner who had served 19 years with the fourth respondent college had chosen to join in the fifth respondent university. As



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per G.O.Ms.No.346 dated 12.06.1996, he was entitled to have a lien of one year to come back to his parent department. But the petitioner had not chosen to come back to his parent department and continued to work with the fifth respondent. In view of sexual allegations made by the students of the fifth respondent college, the petitioner's services with the fifth respondent was brought to an end. Even though the petitioner has put up 19 years of service with the fourth respondent, his appointment with the fifth respondent was considered as temporary only. Even if the petitioner's service is terminated as punishment for any proved charges, he is entitled to get some of the terminal benefits. It is submitted by the petitioner that he was not given with any retiral benefits including pension.

5. The petitioner did not challenge the order of termination and the same is in force. But he was continuously writing to the fourth respondent to extend the period of lien. When G.O.Ms.No.346 dated 12.06.1996, has permitted to have lien only for one year and within that one year period the petitioner had not chosen to come back to his parent department by making use of period of lien. Consequently, he was terminated from the fourth



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respondent also on certain sexual allegations against a girl student. The petitioner had not chosen to challenge the said proceedings. Unless the petitioner was allowed, he cannot claim pension and other retiral benefits.

6. After the petitioner's services were terminated from the fifth respondent, he did not belong to either the fourth respondent or the fifth respondent. So far as the fourth respondent is concerned, the expiry of period of petitioner's lien would sever his relationship with the fourth respondent. When the order of termination dated 27.03.1998 was not challenged or set aside, the petitioner cannot seek a direction to send any pension proposals to the second and third respondents by fixing his date of retirement as on 13.10.2010.

7. Since the petitioner's services have come to an end with effect from 27.03.1998, no question of retirement would arise thereafter. Only if the petitioner continues to be in the services of the fifth respondent, he can claim that he should be retired on superannuation or voluntary retirement. Since the petitioner lost all his terminal benefits in view of his termination dated



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27.03.1998, the relief sought by him cannot be granted. The writ petition has been filed without establishing any *prima facie* right of the claim and hence the relief sought cannot be granted.

8. In view of the reasons stated above, this Writ Petition is dismissed.

No costs.

06.02.2024

Index: Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No
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R.N.MANJULA ,J.

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To:

- 1.The Secretary,
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2. The Director,
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