



W.P.No.10045 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2024

CORAM :

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.10045 of 2023

and

W.M.P.No.10087 of 2023

R.Rakkiyappan

...

Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Higher Education Department,
Secretariat, Fort,
St.George, Chennai – 600 009.

2.The Registrar,
Bharathiar University,
Coimbatore – 641 046.

3.University Grants Commission (UGC),
Bahadur Shah Zaar Marg,
New Delhi – 110 002.

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Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorarified Mandamus calling for the records of the second respondent in his proceedings No.E1/2017/1669-4 dated



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07.04.2017 to the extent that it states that the period of absence will not be counted for pension, other terminal benefits, annual benefits and for Career Advancement Scheme (CAS) and the quash the same as being illegal and unstainable in law and for a consequential direction to the second respondent to consider the period of leave for employment abroad between 01.06.2017 to 31.05.2018 as service for the purpose of Career Advancement.

For Petitioner : M/s.N.Kavitha Rameshwar
For Respondent 1 : Mr.K.Surendran,
Additional Government Pleader
For Respondent 2 : No Appearance
For Respondent 3 : Mrs.V.Sudha,
Standing Counsel

ORDER

This writ petition has been filed challenging the proceedings of the second respondent dated 07.04.2017 to the limited extend of stating that the period of absence of leave shall not be counted for pension, other terminal benefits, annual benefits and for Carrier Advancement Scheme (CAS) and for a consequential direction to the second respondent to consider the period



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of leave for employment abroad between 01.06.2017 to 31.05.2018 as service period.

2. Heard Ms.N.Kavitha Rameshwar for petitioner and Mr.K.Surendran, Additional Government Pleader appearing for first respondent and Mrs.V.Sudha, Standing Counsel appearing for third respondent.

3. The case of the petitioner is that he was appointed as Assistant Professor in the second respondent University in the Department of Mathematics in the year 2011. The service of the petitioner was regularized by the University in the year 2015. The petitioner's probation was also declared in the year 2016 in the post of Assistant Professor.

4. The further case of the petitioner is that the petitioner was invited to work as Research Professor for a period of one year in a Research Centre at Korea. The petitioner on 24.01.2017 applied for permission to the second



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respondent University and the permission was also granted by the proceedings dated 07.04.2017 permitting the petitioner to work as Research Professor for a period of one year at Korea from 10.04.2017 to 09.04.2018.

5. The grievance of the petitioner is that through the proceedings dated 07.04.2017 when the petitioner was granted permission, the petitioner was informed that the period from 10.04.2017 to 09.04.2018 will not be counted as service nor shall be taken into account for calculation of accrued leave, for pension, for other terminal benefits and for annual increment and towards Carrier Advancement Scheme. This portion of the communication has been put to challenge in the present writ petition.

6. The Bharathiar University has adopted the Tamil Nadu Leave Rules, 1933. Even as per the service conditions of Bharathiar University, an employee can avail in total five years of leave on Loss of Pay during the whole of his service. The Tamil Nadu Leave Rules, 1933 specifically deals with leave for employment abroad. It states that the period of absence on



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leave for employment abroad shall be counted as service for certain purposes and particularly for pension.

7. Even as per G.O.Ms.No.196 dated 20.05.1991, the period of absence during employment abroad will be treated as extra-ordinary leave without allowance but such period will not be construed as break in service.

8. In the instant case, there is no dispute with regard to the fact that the petitioner went abroad for a period of one year to work as a Research Assistant to hone his skills. Such permission was also granted by the second respondent University. The petitioner may not be entitled for any pay or allowance and it will be treated as a period of Loss of pay. However, this period has to be considered as service period and it cannot be taken to be a break in service. There is no such prescription made by the relevant rules under the Tamil Nadu Leave Rules, 1933.



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9. In view of the above, the decision taken by the second respondent University not to include the period from 01.06.2017 to 31.05.2018 as service period, is clearly unsustainable and it does not satisfy the relevant rules. This period has to be construed as a Loss of Pay period but however it will be included in the service period of the petitioner.

10. In the light of the above discussion, Clauses 4, 5 and 6 in the impugned communication dated 07.04.2017 are hereby set aside. By virtue of this order whatever consequential benefits to which the petitioner will be entitled by inclusion of that period into his service period, shall be granted by the second respondent University.

11. In the result, this writ petition is allowed with the above direction.
No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Neutral Citation : Yes/No

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Speaking order : Yes/No

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To:

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