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W.P. No. 24656 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

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THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P. No. 24656 of 2018

G. Kunasekaran

... Petitioner

Vs.

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

2.The Registrar,
Periyar University,
Salem – 636 011.

... Respondents

Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents to pay salary for the period from 01.07.2011 to 31.05.2012, sanction pension and other terminal benefits with interest as per rules or as per market rate as the case may be to the petitioner.

For Petitioner : Ms. Kavitha Deenadayalan

For Respondents : Mr. R. Neethi Perumal,
Government Advocate for R1
Ms. H. Mary Sowmi Rexi, for R2
for M/S. Issac Chambers



ORDER

This Writ Petition has been filed seeking a writ of mandamus directing the respondents to pay salary for the period from 01.07.2011 to 31.05.2012, sanction pension and other terminal benefits with interest as per rules or as per market rate as the case may be to the petitioner and pass such further orders in the interest of justice.

2. On behalf of the respondents counter affidavit has been filed.

3. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the first respondent and the learned Standing Counsel appearing for the second respondent.

4. Learned counsel for the petitioner would submit that the petitioner worked as Professor in the second respondent University and he retired in the year 2012. While he was working in the University, he held the post of Professor-cum-Director in the institute of Distance Education in Periyar University. After retirement, the petitioner was not being paid any pensionary benefits. When he approached the University authorities, they informed the petitioner to process his pension file, the petitioner has to submit no due certificate and further informed that the petitioner has to clear all the dues for the advances obtained by him during the service period. In the year, 2014 basing on the Government Order (3D) No. 16 Higher Education (K1)



Department, dated 21.11.2014, the second respondent University initiated disciplinary proceedings against the petitioner. The petitioner did not participate in the same in the light of the relevant rules applicable to conduct the enquiry. Learned counsel for the petitioner further contends that enquiry has to be initiated in this case, within four years from retirement. But in this case, the second respondent initiated disciplinary enquiry belatedly. Due to that reason, the petitioner rejected to participate in the enquiry proceedings.

5. As per the learned counsel for the petitioner, the enquiry was conducted behind the back of the petitioner and the enquiry officer submitted his report and basing on such report, the petitioner was issued a show cause notice and the petitioner submitted his explanation. Thereafter, the second respondent issued proceedings dated 30.12.2022 informing the petitioner that the monetary benefits for the retirement of the petitioner could not be given to the petitioner. Learned counsel for the petitioner further contends that initially, the Tamil Nadu Vigilance and Anti Corruption Department investigated into the allegations against the petitioner and after conducting detailed investigation, the Vigilance and Anti Corruption Department dropped the proceedings against the petitioner. Though the Vigilance Department dropped proceedings against the petitioner, the Government erroneously permitted the University to conduct enquiry against the petitioner to take disciplinary proceedings which is illegal, arbitrary, unjust and against to the settled proposition of



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6. On the other hand, the learned Government Advocate appearing for the first respondent would submit that out of total six allegations made against the petitioner and investigated by the Anti Corruption Department, only two allegations are not substantiated and accordingly, it is recommended to drop further action on the said allegations only and recommended to authorise the second respondent to initiate departmental proceedings for the substantiated allegations. Considering the report of the investigating agency, the Government has considered the issue comprehensively and issued order in G.O.(3D) No. 16 Higher Education (K1) Department, dated 21.11.2014, authorised the second respondent to conduct the disciplinary proceedings against the petitioner.

7. Learned Standing Counsel for the second respondent would submit that there is no delay on the part of the second respondent University in processing the pension papers of the petitioner at the beginning stage. But only due to non-production of No Objection Certificate by the petitioner and for not clearing the dues by the petitioner, the pension papers are not processed. Meanwhile, the Government directed to conduct disciplinary enquiry against the petitioner and the disciplinary enquiry was conducted and the petitioner participated in the enquiry and basing on the enquiry report, a show cause notice was issued to the petitioner and he submitted his



explanation and considering the same, the entire issue was placed before the learned Advocate General of Tamil Nadu State for his legal opinion and basing on the legal opinion of the learned Advocate General, the second respondent informed the petitioner vide order dated 30.12.2022 that the petitioner's monetary benefits for the retirement could not be given.

8. Learned Standing Counsel further contends that considering the gravity of the charges levelled against the petitioner and after providing opportunity to the petitioner to participate in the enquiry and affording opportunity to submit his explanation to the show cause notice, a final decision was taken and the order dated 30.10.2022 is passed. In the light of the said order, the petitioner is not entitled for the relief sought in this writ petition.

9. Having considered the submissions of the respective counsel and upon careful examination of the materials available on record, though the learned counsel raised several grounds to substantiate their case, but considering the main prayer sought in this writ petition, as it is pertaining to pay salary for the period from 01.07.2011 to 31.05.2012 and to sanction pension and other terminal benefits and the same issue has been considered by the second respondent while passing order dated 30.12.2022, in the considered opinion of this Court, no further orders are required in this writ petition to ventilate grievance of the petitioner.



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10. Accordingly, this Writ Petition is dismissed.

11. However, it is made it clear that it is open to the petitioner to challenge the order dated 30.12.2022 passed by the second respondent in appropriate forum by following due process of law, if they so desire. It is also made it clear that, if any application / representation submitted by the petitioner for provisional pension to the second respondent, it shall be considered in accordance with law, as per the applicable rules and pass appropriate orders as expeditiously as possible, within a period of four weeks from the date of receipt of said representation.

14.10.2024

Index :Yes/No
Neutral Citation :Yes/No
AT



W.P. No. 24656 of 2016

To

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

2.The Registrar,
Periyar University,
Salem – 636 011.



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BATTU DEVANAND, J.

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