IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.17812 of 2024
and
W.M.P.Nos.19564 and 19566 of 2024

Annamalai University
Rep. By its Registrar,
Annamalai Nagar,
Chidambaram – 608 002.
Cuddalore ...Petitioner

Vs.

1. The Additional Commissioner of Labour,
Chennai.

2. The Deputy Commissioner of Labour,
Joint Commissioner of Labour – II Office,
Chennai.

3. Valsala Thankachi ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records pertaining to the order of the first respondent made in P.G.A.No.20 of 2023 etc., batch dated 22.09.2023 and quash the same.

For petitioner : Mr.S.Sithirai Anandam

For R1 & R2 : Mr.Tamil Vendan
Government Advocate

ORDER

This writ petition has been filed to quash the order dated 22.09.2023 passed in P.G.A.No.20 of 2023 etc., batch dated 22.09.2023 and quash the same.

2. It is submitted by the learned counsel for the petitioner that the petitioner's University has recruited excess staff against the sanctioned strength, without assessment of workload by the University administration. The Government, after taking the University under its control, in order to protect the excess staff and instead of retrenchment, decided to re-deploy them to various other Government departments. Accordingly, on 18.01.2017 it was resolved to re-deploy 1106 teaching staff in addition to already re-deployed 368 teaching staff. Totally, 1474 teaching staff were re-deployed to other Government Colleges and institutions. It is also resolved to approve the creation of 7333 supernumerary non teaching posts and re-deploy 4722 non teaching staff in various Government institutions.

3. It is further submitted that the local fund audit departments has raised objections regarding stage I,II,III,IV promotions from 2012 onwards. Accordingly, the University has been releasing only 50% of gratuity amounts to the retired employees while informing them that remaining 50% of the gratuity amount will be disbursed to the retired staff only after all the audit objections are complied with and after settlement of clearance of audit objections in respect of 4 stages of promotions.

4. The third respondent joined the University on 29.03.1991 and retired after attaining the age of superannuation on 31.07.2013. The total gratuity amount to be paid to the third respondent is Rs.2,94,462/-/- but the University has paid only Rs.2,35,570/- to him. The remaining gratuity amount left with the petitioner is Rs.58,892/-.

5. The third respondent has filed P.G.No.25 of 2021 before the Controlling Authority, Deputy Commissioner of Labour – II for release of remaining gratuity amount and the same was allowed by order dated 08.03.2021. Challenging the same, the University has filed W.P.No.17646 of 2021 and an order of interim stay was granted on 25.08.2021 with a

direction to the petitioner University to pay the balance of 50% amount within eight weeks and the same was complied with. However, the said writ petition was dismissed on 14.07.2022. The University preferred an appeal in P.G.A.No.3 of 2023 etc., batch and the same was also dismissed on 22.09.2023 confirming the order dated 08.03.2021 passed by the second respondent.

6. It is submitted by the learned counsel for the petitioner that non payment of 50% of gratuity amount was due to audit objection raised by the local audit department and that the appellate authority without considering the issue of objections raised by the local fund audit department and that the payment of 50% of gratuity was deferred only for the time being until the objection were resolved has dismissed the appeal.

7. As seen for the records the audit objections were initially raised in the year 2012 in respect of four stages of promotions. Similar objections were also raised in the year 2015-2016. It is to be noted that though the audit objections were raised in the year 2012 the University could not resolve the issue even after a lapse of 12 years. It is also on record that since

2013 the pensioners were given only 50% of gratuity amounts. Payment of gratuity is a welfare measure to the retired employees and non payment will effect the livelihood of the retired employees. Therefore, this Court is of the opinion that the controlling authority and the appellate authority have consciously passed the orders directing the petitioner to pay balance 50% amount within eight weeks, and there are no merits in this writ petition.

8. In view of the above and considering the submissions made by the petitioner University and on perusal of the records, this writ petition is disposed of at the admission stage itself imposing a stay on the impugned orders in P.G.A.No.20 of 2023 dated 22.09.2023 for a period of 12 weeks only from the date of receipt of copy of this order within which time the University is directed to clear all the audit objections raised by the local fund audit department and pay the remaining gratuity as per the out come of the audit objections of the local fund audit department.

9. In case within 12 weeks if the petitioner University fails to resolve the issue with regard to the four stages of promotions raised by the local fund audit department then these orders of stay automatically gets

vacated and the University shall abide by the orders of the controlling authority and the appellate authority and pay the balance gratuity amount to the second respondent excluding the 50% of amount already paid. Connected W.M.Ps are closed. No costs.

08.07.2024

(7/8)

vca
Index : Yes/No
Internet : Yes/No
Citation : Yes/No

To

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   Chennai.

2. The Deputy Commissioner of Labour,
   Joint Commissioner of Labour – II Office,
   Chennai.

Dr.D.NAGARJUN,J.

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