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W.P.No.25884 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.25884 of 2023
W.M.P.Nos.25322 & 25324 of 2023

V.Gomathi

...Petitioner

-Vs -

1. The University Administrative Committee,
The Tamil Nadu Dr.MGR Medical University,
By the Principal Secretary to Government,
Health & Family Welfare Department,
Convenor -UAC,
The Tamil Nadr Dr. MGR Medical University,
No.69, Anna Salai,
Guindy, Chennai – 600 032.

2. The Tamil Nadu Dr.MGR Medical University,
Rep. by its Registrar,
No.69, Anna Salai,
Guindy, Chennai – 32.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent dated 23.03.2023 in Proc No.EI(2)/08970/2012 insofar as granting promotion to the petitioner to the post of Deputy Registrar from 22.02.2015 and ordering monetary benefits only from the date of assumption of charge and quash the same



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and consequently direct the respondents to order promotion to the post of Deputy Registrar from 14.09.2015 with all attendant and monetary benefits payable to the post of Deputy Registrar.

For Petitioner : Mr.N.A.Nassir Hussain

For Respondents : Mr.Mohammed Gouse
Standing Counsel

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 23.03.2023, insofar as ordering monetary benefits only from the date of assumption of charge.

2. The petitioner is working as Deputy Registrar in the respondents university. Originally, the petitioner was promoted to the post of Assistant Registrar as per the order dated 05.09.2014, passed by the Hon'ble Division Bench of this Court in W.A.No.1369 of 2012. The Hon'ble Division Bench also directed the respondents to give promotion to the petitioner notionally as Assistant Registrar with effect from 01.10.2011 and monetary benefits from 22.02.2012. The service statutes of the respondents states that the eligibility for the post of Deputy



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Registrar/Administrative officer by promotion from the post of Assistant Registrar is service in the said post for a period of not less than three years. Therefore, the petitioner has become fully eligible to the post of Deputy Registrar/Administrative Officer as on 01.10.2014. Though the petitioner repeatedly submitted representation, it was not considered. However, one B.Srikumar, who was not eligible to hold the post of Deputy Registrar was promoted to the said post.

3. Further disciplinary proceedings were also initiated against the petitioner and hence she challenged the said proceedings in W.P.No.40555 of 2015. She also filed writ petition in W.P.No.39827 of 2015 seeking promotion to the post of Deputy Registrar/Administrative Officer, by challenging the order of promotion to the said B.Srikumar. This Court allowed the writ petition in W.P.No.4055 of 2015 and quashed the charge memo by an order dated 29.09.2022. Therefore, the petitioner submitted representation to promote her to the post Deputy Registrar/Administrative Officer and to release the withheld increments.

4. Since the same was not considered, the petitioner was



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constrained to file contempt petition in Cont.P.No.765 of 2023. While pending the contempt petition, the request made by the petitioner was considered and she was promoted to the post of Deputy Registrar with effect from 22.02.2015 notionally. However, the petitioner was not granted monetary benefits from the date of her notional promotional as Deputy Registrar. Hence, the petitioner filed the present writ petition.

5. Heard the learned counsel appearing on either side and perused the material placed before this Court.

6. The learned Standing Counsel appearing for the respondents submitted that new counsel has been now engaged by the respondents and sought for time. However, the earlier counsel on record already filed the counter and it revealed that in the 237th meeting of the respondents held on 21.02.2023, approved the recommendations of the Selection Committee constituted for drawing a panel for promotion to the post of Deputy Registrar/Administrative Officer in the existing vacancies as per order of seniority and promote the candidates to the post of Deputy Registrar / Administrative officer in the existing vacancies accordingly.



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Therefore the petitioner was promoted to the post of Deputy Registrar notional with effect from 22.02.2015 and monetarily from the date of assumption of charges as Deputy Registrar of the said post viz., 23.03.2023.

7. In this regard, it is relevant to rely upon the Judgment of the Hon'ble Supreme Court of India reported in **1991 4 SCC 109** in the case of **Union of India and others Vs K.V.Jankiraman and others**, in which the Hon'ble Supreme Court of India held as follows:-

“25. We are not much impressed by the contentions advanced on behalf of the authorities. The normal rule of "no work no pay" is not applicable to cases such as the present one where the employee although he is willing to work is kept away from work by the authorities for no fault of his. This is not a case where the employee remains away from work for his own reasons, although the work is offered to him. It is for this reason that F.R. 17(1) will also be inapplicable to such cases.

26. We are, therefore, broadly in agreement with the -finding of the Tribunal that when an employee is completely exonerated meaning thereby that he is not 'found blameworthy in the least and is not visited with



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the penalty even of censure, he has to be given the benefit of the salary of the higher post along with the other benefits from the date on which he would have normally been promoted but for the disciplinary/criminal proceedings.” Thus, it is clear that the normal rule of “no work no pay” is not applicable to cases, where an employee although is willing to work is kept away from work by the authorities for no fault of him.”

Though the petitioner was willing to work in the post of Deputy Registrar, she was denied promotion on the ground that the charge memo was pending as against her. Subsequently, the charge memo was quashed by this Court in W.P.No.40555 of 2015 by an order dated 29.09.2022. Therefore, the petitioner is entitled for the monetary benefits from the date of her notional promotion viz., from 14.09.2015 with all attendant benefits. Hence, the order passed by the first respondent cannot be sustained and liable to be quashed.

8. In view of the above discussions, the impugned order dated 23.03.2023, passed by the first respondent in Proc No.EI(2)/08970/2012, is hereby quashed. The respondents are directed to disburse all the



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monetary benefits from the date of her notion promotion to the post of Deputy Registrar viz., 14.09.2015 within a period of eight weeks from the date of receipt of a copy of this Order.

9. With the above directions, the Writ Petition stands allowed.

Consequently, connected miscellaneous petitions are closed. There shall be no orders as to costs.

11.03.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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To

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University Administrative Committee,
The Tamil Nadu Dr.MGR Medical University,
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Convenor -UAC,
The Tamil Nadr Dr. MGR Medical University,
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2. The Registrar,
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