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W.P.No.3165 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2024

CORAM:

THE HON'BLE MRS.JUSTICE.N.MALA

W.P.No.3165 of 2017
and WMP.No.3103 of 2017

V.Chandrahasan

... Petitioner

VS.

1.The Secretary to Government,
Higher Education (F2) Department,
Fort St.George,
Chennai – 600 009.

2.The Directorate of Collegiate Education,
Rep. by its Director,
DPI Compound,
College Road,
Chennai – 600 006.

3.The Joint Director of Collegiate Education,
Trichy.

4.The Principal,
Government Arts College for Men,
Kumbakonam.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in connection with the impugned order passed by him in letter No.4859/F2/2016/1 dated 24.06.16 and quash the same and direct the



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respondents 1 and 2 to treat the period from 13.06.2006 to 13.06.2009 during the period in which the petitioner has served as College Librarian in the 4th respondent college as regular period of service, fix the salary of the petitioner in the cadre of college librarian and sanction all benefits including pensionary benefits and grant such other further relief as this Hon'ble Court may deem fit in the circumstances of the case.

For Petitioner : Mr.M.Muthappan

For R1 to R4 : Mr.C.Jayaprakash
Government Advocate

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ORDER

This Writ Petition is filed to call for the records of the 1st respondent in connection with the impugned order passed by him in letter No.4859/F2/2016/1 dated 24.06.16 and quash the same and direct the respondents 1 and 2 to treat the period from 13.06.2006 to 13.06.2009, during which the petitioner served as College Librarian in the 4th respondent college as regular period of service, fix the salary of the petitioner in the cadre of college librarian and sanction all benefits including pensionary benefits.

2.The petitioner completed his Graduation in Economics and Post Graduation in History. The petitioner served the Government from 1974 to



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1984 and was reappointed as Junior Assistant in the Collegiate Education Department on 31.05.1990. The petitioner completed his M.L.I.S. in May, 2000 and thereafter became eligible for appointment as Librarian. He was promoted as Assistant on 05.11.2004. While so, based on the 2nd respondent's proceedings dated 02.12.2004, all Government Colleges were instructed to send the willingness letters obtained from their staffs for appointment as Librarian on deputation in the 2nd respondent Department vide proceedings dated 13.04.2006. On the basis of the petitioner's willingness letter, the petitioner was appointed as Librarian on deputation in the Government College, vide proceedings dated 27.04.2006. The petitioner joined as Librarian in Government Arts College, Kumbakkonam on 14.06.2006. The petitioner completed his M.Phil during 2008. From 14.06.2006 to 30.06.2009 for a period of three years, the petitioner worked as a Librarian in the 4th respondent College on deputation and finally retired on 30.06.2009. The petitioner therefore submitted a representation to the respondents on 19.11.2009 to consider his case on humanitarian grounds and pass appropriate orders. Thereafter the petitioner approached this Court in W.P.No.17452 of 2010 for a Writ of Mandamus, directing the respondents to consider the period from 13.06.2006 and 30.06.2009, during which the petitioner worked as a College Librarian in the 4th respondent College, on deputation as regular period of service and pay him the arrears of pay scale for



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the said period and pension in future as per the pay scale of regular employee holding the post of College Librarian. This Court vide order dated 11.03.2011, directed the respondent to pass orders on the representation made by the petitioner dated 11.06.2010, within a period of 10 weeks. The respondent vide the order dated 20.04.2011, rejected the claim of the petitioner and therefore the petitioner preferred an appeal to the Government as early as on 2013. As there was no response, the petitioner again made a representation on 12.02.2015, to fix his scale of pay as College Librarian on par with others, who had been deputed to serve as Librarian. As there was no response, the petitioner filed a writ petition in W.P.No.4289 of 2015 and this Court at the time of admission disposed of the writ petition by directing the 1st respondent to pass orders on the representation within a period of eight weeks. The first respondent thereafter vide impugned order dated 24.06.2016, rejected the petitioner's claim and therefore, the petitioner has filed the above writ petition.

3.The learned Senior counsel for the petitioner submitted that the petitioner had specifically mentioned in his representation dated 12.02.2015, that R.Madivanan, S.Jayashree, T.Ilavalagan, A.Chandra and R.Parthasarathy, who were appointed along with him were granted relaxation under the Tamil Nadu Collegiate Education Rules. The learned counsel submitted that



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relaxation of Rules was permissible for both in service as well as retired employees. The learned counsel therefore submitted that the rejection of the petitioner's claim on the sole ground that the petitioner was retired from service was untenable. The learned counsel therefore submitted that the impugned order deserved to be set aside.

4. Admittedly, the 1st respondent vide G.O.(D).No.209, Higher Education Department dated 02.09.2011 granted relaxation of Rules to the named persons and they also served and drew benefits on the strength of the relaxation. The impugned order states that the petitioner cannot seek similar benefit with those appointed in 2011 because he retired from service. In my view the petitioner cannot be denied the benefit of relaxation merely because he retired. I am therefore of the view that the impugned order deserves to be set aside for fresh consideration by the first respondent. The first respondent is directed to pass fresh orders on the representation of the petitioner dated 12.02.2015, in the light of the relaxation given by the Government with reference to the similarly placed persons vide G.O.(D).No.209, Higher Education Department dated 02.09.2011, within a period of six weeks, from the date of receipt of a copy of this order.



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5. With the above direction, this Writ Petition stands disposed of.

However there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes / No

Internet : Yes / No

Speaking order/Non-speaking order
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To

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Fort St. George,
Chennai – 600 009.
2. The Directorate of Collegiate Education,
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N.MALA, J.

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