



W.P.(MD)No.18315 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.18315 of 2024

and

W.M.P.(MD).Nos.15593 & 15595 of 2024

M.Chidambaram

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
Higher Education Department,
Secretariat,
St.George Fort,
Chennai-9.

2.The Registrar,
Manonmaniam Sundaranar University,
Abisekapatti,
Tirunelveli.

3.The Director Department of Local Fund Audit,
No.571, Officers Building,
Veterinary Hospital Complex,
4th Floor, Nandanam,
Chennai.

4.The Assistant Director,
Local Fund Audit, Tirunelveli,
Tirunelveli District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the second respondent in MSU/R/Estt/Admin/Show Cause/2024, dated 15.04.2024 and consequential impugned order of the second respondent in Memo No.MSU/R/Estt/Admin/Revision Pension Proposal / 2024, dated 13.05.2024 and quash the same as illegal and consequently to direct the second to fourth respondents to disburse the retirement and pension benefits to the petitioner within the time stipulated by this Court.

For Petitioner : Mr.E.Mareeskumar

For Respondents : Mr.T.Amjadkhan,
Government Advocate

ORDER

By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

2. Heard Mr.E.Mareeskumar, learned counsel appearing for the petitioner and Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents.



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3. The petitioner, who was working as ‘Deputy Registrar’ in the second respondent University, retired from service on 30.06.2023, has filed this Writ Petition challenging the impugned order of the second respondent in MSU/R/Estt/Admin/Show Cause/2024 dated 15.04.2024 and consequential impugned order of the second respondent in Memo NO.MSU/R/Estt/Admin/Revision Pension Proposal / 2024, dated 13.05.2024 and consequently direct the second to fourth respondents to disburse the retirement and pension benefits to the petitioner within the time stipulated by this Court.

4. Mr.E.Mareeskumar, learned counsel appearing for the petitioner submitted that by virtue of the impugned orders, the petitioner's pension has been reduced on the basis the wrong fixation of the petitioner's pay. Challenging the same, the petitioner has filed this Writ Petition.

5. The issue has already been dealt with by this Court in W.P.(MD).No. 9989 of 2024, dated 24.04.2024. The relevant portions in the said Judgment are extracted below:

“6. In the similar lines, the Administrative Staff Association of Manonmaniam Sundaranar University represented by its General



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Secretary have also filed a writ petition in W.P.(MD)No.6635 of 2019 and this Court in paragraph No.8, had held as follows.

"8.Section 27 of the Act will not empower the Government to issue a direction of this nature. The Director of Local Fund Audit had gone to the extent of stating that the University has been giving wrong promotions / increments. The job of the Local Fund Audit is to see if the expenditure incurred by the University is in consonance with the policy of the University. As per Section 27 of the Act, the Syndicate has the power to appoint the University Lectures, University staff and fix their emoluments. It is not for the Local Fund Audit to go into the justification of the promotions given by the University. The Government has gone entirely by the report of the Local Fund Audit. It clearly amounts to interference with the internal administration of the University. Section 27 of the Act has been misconstrued by the Government. The impugned communication is without jurisdiction. It is quashed and the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed."

7. The above said judgment will also be applicable to the facts of the present case, because in the instant case also the second respondent University has passed the impugned order, based on the Audit Objection raised with regard to the wrong fixation of pay of the non-teaching staff. As held in the above Judgment, only the Syndicate has the power to appoint the University staffs and fix their emoluments. The re-fixation of salary and consequential pensionary benefits post retirement



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retrospectively, in the opinion of this Court, is not in accordance with law and hence, the impugned orders are liable to be set aside.

8. In the result, this Writ Petition is allowed and the impugned order passed by the second respondent, dated 05.03.2024, is quashed. The respondents are directed to reimburse the recovered amount to the petitioner with interest within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.”

6. In the light of the decision cited supra, the Writ Petition is **allowed** and the impugned order of the second respondent in MSU/R/Estt/Admin/Show Cause/2024 dated 15.04.2024 and consequential impugned order of the second respondent in Memo NO.MSU/R/Estt/Admin/Revision Pension Proposal / 2024 dated 13.05.2024 are set aside. The respondents are directed to reimburse the recovered amount to the petitioner with interest within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

02.08.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
TSG



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To

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R.N.MANJULA, J.

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