



W.P.(MD)No.22617 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.22617 of 2022

and

W.M.P.(MD).Nos.16785 and 16786 of 2022

V.Jothivairavan

... Petitioner

Vs.

1.The Secretary to the Government,
State of Tamil Nadu,
Higher Education (K1) Department,
Secretariat,
Chennai-9.

2.The Registrar,
Madurai Kamaraj University,
Madurai-625 021.

3.The Vice-Chancellor,
Vice-Chancellor's Office,
Madurai Kamaraj University,
Madurai-625 021.

4.The Deputy Director,
Local Fund Audit,
Madurai Kamaraj University Audit,
Madurai-625 021.

... 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 fourth respondent vide his proceedings in R.Dis.No.306/A1/2020, dated 13.12.2020 and quash the same as illegal and consequently to direct the second respondent to disburse the remaining retirement benefits viz., 10% of pension, gratuity, computation of pension, leave salary benefits with an accrued interest thereon for the belated payment of monetary benefits at the rate of 18% within the period that may be stipulated by this Court.

For Petitioner : Mr.S.Mohamed Suhail,
for M/s.Ajmal Associates

For R-1 & R-4 : Mr.T.Amjad Khan,
Government Advocate

For R-2 & R-3 : Mr.T.Cibichakraborty

ORDER

Heard Mr.S.Mohamed Suhail, learned counsel appearing for the petitioner, Mr.T.Amjad Khan, learned Government Advocate appearing for Respondents Nos.1 and 4 and Mr.T.Cibichakraborty, learned counsel appearing for respondent Nos.2 and 3.



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2. This Writ Petition has been filed challenging the impugned order passed by the fourth respondent vide his proceedings in R.Dis.No.306/A1/2020, dated 13.12.2020 and consequently to direct the second respondent to disburse the remaining retirement benefits viz., 10% of pension, gratuity, computation of pension, leave salary benefits with an accrued interest thereon for the belated payment of monetary benefits at the rate of 18% within the period that may be stipulated by this Court.

3. The petitioner, who was working as an Attender, retired on 31.12.2016, on attaining the age of sixty years. When the pension proposal for the petitioner was sent, objection has been raised and the fourth respondent has passed the impugned order dated 13.12.2020 stating that the petitioner belonged to superior services and his age of retirement is 58 years and not 60 years. In pursuant to the above audit objection, a proceeding has been communicated to the second respondent University calling for remarks from their end and action to be taken. Pursuant to that, the second respondent has passed an order withholding 10% of the terminal benefits payable to the petitioner dated 14.12.2020.



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4. Mr.S.Mohamed Suhail, learned counsel appearing for the petitioner

submitted that since the impugned order, dated 14.12.2020 has been passed in pursuant to the audit objection without putting the petitioner on notice, the petitioner is required to give an opportunity by considering the order dated 14.12.2020 itself as a show cause notice.

5. Since the petitioner is at liberty to make his submissions. the second respondent is directed to pass an appropriate order on merits and in accordance with law by considering the submission of the petitioner. The petitioner is at liberty to make his submissions with regard to the audit objection also by making his submissions. It is needless to state that the second respondent, who has availed the service of the petitioner until 60 years, cannot pass a negative order without justifying the extension of service given to the petitioner by allowing the petitioner to serve upto 60 years by withholding 10% of his terminal benefits.

6. In view of the above, the Writ Petition is **disposed of** with a direction to the second respondent to take a call on the petitioner and deal with the audit objection and also give an opportunity to the petitioner to make his submissions and pass orders afresh on merits and in accordance with law within a period of



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four weeks from the date of receipt of a copy of this order. No costs.

Consequently, the connected miscellaneous petitions are closed.

09.07.2024

NCC:yes/no

Index:yes/no

Internet:yes/no

TSG

To

1.The Secretary to the Government,
State of Tamil Nadu,
Higher Education (K1) Department,
Secretariat,
Chennai-9.

2.The Registrar,
Madurai Kamaraj University,
Madurai-625 021.

3.The Vice-Chancellor,
Vice-Chancellor's Office,
Madurai Kamaraj University,
Madurai-625 021.

4.The Deputy Director,
Local Fund Audit,
Madurai Kamaraj University Audit,
Madurai-625 021.



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R.N.MANJULA, J.

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