(2014) 10 MAD CK 0271

In the Madras High Court

Case No : Writ Appeal No. 2117 of 2013

Annamalai University	APPELLANT
Vs	
Siva Reddy	RESPONDENT

Date of Decision : 16-10-2014

Acts Referred:

Citation : (2014) 10 MAD CK 0271

Hon'ble Judges : P.R. Shivakumar, J;N. Paul Vasantha Kumar, J

Bench : Division Bench

Judgement

N. Paul Vasanthakumar, J.

1. Heard Mr.R.Suresh Kumar, learned counsel appearing for the appellants and Mr.Balan Haridass, learned counsel appearing for the respondent.

2. This writ appeal is filed against the order made in W.P.No. 19587 of 2011, dated 24.9.2012 wherein the respondent has prayed for issuance of writ of mandamus directing the 1st appellant to pay gratuity, pension, arrears of pension, commuted value of pension based on the emolument which he was receiving at the time of retirement as per Gratuity-cum-Pension-cum-Provident Fund-cum-Insurance-cum-Family Pension Scheme for Teachers framed by the 1st respondent-University along with interest at the rate of 10% per annum.

3. It is the case of the respondent before the learned single Judge was that he was appointed as Lecturer in Forensic Medicine in the 2nd respondent-College, which was affiliated to the 1st respondent-University on 21.3.1991. The respondent was promoted as a Reader in the Department of Forensic Medicine from 01.7.2001 and was further promoted as Professor from 23.10.2002. He reached the age of superannuation on 2.5.2010. The age of retirement was 60 years and he was also allowed to retire, as there was no proceedings pending against him. Since the respondent was a teaching staff, his services were extended till the end of the academic year viz., 30.6.2010 on re-employment terms. The respondent served on re-employment till 30.6.2010 and he was

relieved thereafter with a certificate of No Arrears from the Department. The respondent also handed over charge to his successor, as directed. The respondent vacated the quarters and car shed and handed over possession of the same to the appellants. On 9.8.2010, the 1st appellant issued an order re-employing the respondent on the basis that a Professor retiring at 60 years, should serve upto the age of 65 years and the respondent was also asked to report for duty on or before 13.8.2010. The said letter was issued based on the Syndicate Resolution bearing No. 63, dated 28.7.2010, which states that a person should serve upto 65 years and if a person leaving before serving at the age of 65 years, he should remit a sum of Rs.5.00 lakhs as compensation and an undertaking to this effect be obtained as and when they offered the appointment on renewable contract basis after superannuation/retirement.

4. Since the respondent retired virtually on 2.5.2010 and he served on re-employment till 30.6.2010 and he vacated his office on retirement from 01.7.2010, the Syndicate Resolution said to have been passed on 28.7.2010, cannot be applied to the respondent.

5. The learned single Judge appreciated the said fact and allowed the writ petition with a direction to the appellants to settle the arrears of pay and allowances arising out of the fixation of pay on the basis of the recommendations of VI Pay Commission, within a period of eight weeks and to settle the terminal benefits such as gratuity, pension, computation of pension etc., on the basis of the revised scale of pay, as applicable to the respondent after the implementation of the recommendations of the VI Pay Commission, within the period of eight weeks from the date of receipt of a copy of the order and also ordered to pay interest for the said amounts at the rate of 10% per annum from the date of due till the date of payment.

6. The learned counsel appearing for the University contended that the Syndicate Resolution dated 28.7.2010 has not been challenged and in the light of the said resolution, the mandamus issued by the Writ Court, is not proper. We are unable to appreciate the said contention, as the resolution itself was passed on 28.7.2010, long after the actual date of retirement of the respondent that was on 2.5.2010.

7. Accordingly, the writ appeal is dismissed. No costs. It is made clear that this judgment will be applicable to the persons, who retired prior to the Syndicate Resolution dated 28.7.2010 and not to the persons retired after the said Resolution, unless they challenge the resolution and set aside the same.