

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :30.01.2015

CORAM:

The Honourable Mr.Justice K.K.SASIDHARAN

W.P.No.26332 of 2011
& M.P.Nos.1 & 2 of 2011
& 1 and 2 of 2013

Dr. A. Raja

...Petitioner

- vs. -

1. The Anna University
Rep. by its Registrar
Chennai-600 025.
2. The Secretary
University Grants Commission
Bahadur Shah Zafar Marg
New Delhi-110 002.
3. The Director
Consortium for Educational Communication
Aruna Asaf Ali Marg
NSC Campus
New Delhi-110 067.
4. The Secretary to Government of Tamil Nadu
Higher Education Department
Fort St. George
Chennai-600 009.
5. The Vice Chancellor or Chairman
Board of Management (EM2 RC)
Anna University
Chennai-600 025.
6. The Director
Education Multimedia Research Centre
(EM2 RC-AVRC)
Anna University
Chennai-600 025.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the

records relating to the sixth respondent's order made in Memo No.016/AMMRC/AU/2010 dated 11.10.2010, to quash the same and consequently direct the respondents to accord Career Advancement and Promotion and other service benefits arising thereto forthwith.

For Petitioner : Mr.L. Chandrakumar

For Respondents: Mr.V. Govardhanan
for M/s. Row and Reddy
for RR1, 5, 6

Mr.K. Ravindranath
Senior Standing Counsel for R.2

Mr. P.R. Gopinath for R.3

Mr.M.S. Ramesh
Addl. Govt. Pleader for R.4

ORDER

This writ petition is directed against the order dated 11 October 2010, whereby and whereunder, Anna University rejected the request made by the petitioner to treat the post of Producer as Teaching post and permit him to continue in service till the age of 60 years.

The facts:

2. The petitioner was appointed as Producer in Audio Visual Research Centre of Anna University. The petitioner having found that the Memorandum of Understanding executed between the University Grants Commission ("UGC" in short) and Anna University provided for treating the Producer's Post as Academic, submitted a representation dated 28 August 2008 to the University to consider him as Academic Staff. The said representation was ultimately disposed of by the sixth respondent holding that the post of Producer is not a teaching post and as such he is not entitled for the benefits of Career Advancement Scheme. The said order is under challenge in this writ petition.

3. The Registrar, Anna University in his counter affidavit admitted that the project is financed by UGC and that The University has entered into a Memorandum of Understanding with UGC. According to the University, the post of Producer is a non-teaching post and as such the petitioner is not entitled to continue till the age of 60 years.

Submissions:

4. The learned counsel for the petitioner contended that right from the order dated 19 May 1990, the University has maintained that

the petitioner is working in Lecturer Cadre. According to the learned counsel, the Memorandum of Understanding entered into between UGC and Anna University clearly provides that the University would treat the academic, technical and other staff of Media Centre as teaching staff. The learned counsel placed reliance on the judgment of this Court dated 8 April 2011 in W.P.(MD). No.2166 of 2006 in support of his contention that a similar issue was considered by the Madurai Bench and a positive finding was given to the effect that such posts are all academic in nature. The learned counsel contended that this Court granted interim order on 31 January 2013 and on the basis of the said order, the petitioner continued in service and he is due to retire on 31 January 2015. The learned counsel contended that the petitioner has not been paid salary for the last two years in spite of his continuous service.

5. The learned Standing Counsel for the University contended that the post of Producer is a Technical Post and as such there is no question of treating it as Academic. According to the learned counsel, UGC in its letter issued in March 2010 clarified that the post of Producer cannot be equated with that of teacher for Career Advancement Scheme as it does not fulfill the parameters set by the Ministry of Human Resources Department, Government of India. The learned counsel by placing reliance on the University Regulations contended that the Media Centre was constituted not for Academic purpose. The staff attached to Media were not considered as Teaching Staffs and as such the petitioner is not entitled to the benefits of Career Advancement Programme. The learned counsel submitted that similar issue came up before the Andhra Pradesh High Court. The Andhra Pradesh High Court negated the contention taken by a similarly placed person and the said order was confirmed by the Supreme Court. The learned counsel submitted that the petitioner worked pursuant to the interim order. He was not paid salary as he is not entitled to get salary beyond the period of 58 years which is the normal age of retirement of a Producer.

Analysis:

6. The petitioner was appointed as Producer by order dated 16 October 1989. The Registrar Anna University issued a proceedings dated 19 May 1990 fixing the pay of the petitioner in the post of Producer. The subject column in the said proceedings shows that it was treated as a Teaching Staff. The Registrar in the said proceedings further stated that the petitioner is appointed to the post of Producer (Lecturer Cadre). The UGC in its circular dated 10 September 1990 issued to the Registrar, Central Institute of English and Foreign Languages, Hyderabad and all other Co-ordinators has indicated that UGC has decided to treat certain posts including the post of Producer as Academic (non-vocational) posts.. The letter dated 20 April 1993 sent by the Director, Curriculum and Educational Media Development Centre to the Registrar, Anna University also shows that the petitioner is working in Teaching Staff Category.

7. The typed set of papers filed by the respondents contain several documents including the Memorandum of Understanding entered into between the UGC and the University of Madras, suggesting that the post of Producer is a Teaching Post. The Memorandum of Understanding provided that the Media Centre would be treated as a separate, academic, non-vacational, autonomous department functioning under its head. There is a further condition in the said agreement that the staff of the Media Centre would be treated as Academic and the post would be equivalent to teaching staff.

8. The following are the terms of the memorandum of understanding relevant for resolving the issue raised in this writ petition.

"4. The University/Institution undertakes to:

A. 4.1

B. Establishment

4.2

4.3 Constitute the Media Centre as a separate, academic, non-vacation, autonomous department functioning under its head.

C.....

D. Staff/Recruitment

4.8 Treat the academic, technical and other staff of the Media Centre as equivalent to teaching, technical and other staff of the University/Institution."

9. The preamble to the Memorandum of Understanding states that UGC has been utilising the Indian Satellite (INSAT) System for broadcasting high quality educational material. The University wanted to provide an institutional framework for sustaining and enhancing these activities. The UGC with the objective of producing audio-visual programmes, conduct of relevant research, training of necessary manpower and promotion of related culture in the University system for the maximum utilization of the electronic media for education has made arrangement with Anna University to establish an Audio visual Research Centre/Educational Media Research Centre.

10. The media centre is therefore a creation of this memorandum of understanding. The programme is fully sponsored by UGC. The University is not expected to spend anything and the entire amount would be met by UGC. Since Anna University is a party to the memorandum of understanding, it is bound by the terms and conditions of the agreement which provides that Staff of the Media Centre would be treated as teaching staff. The Anna University is therefore not correct in its contention that the post of Producer is not considered as teaching post.

11. The learned counsel for the respondents placed reliance on the clarification issued by UGC to the effect that the post of Producer cannot be equated with teachers for CAS as it does not fulfill the parameter set by the Ministry of Human Resource Development. The letter was issued to the Director, Educational Multimedia Research Centre, The English and Foreign Language, Hyderabad. There is nothing on record to show that memorandum of understanding was entered into by UGC with the said University in the line of agreement executed between Anna University and UGC providing for a media centre and treating the employees like Producers as Teaching Staff. It is also true that the Special Leave Petition preferred by an employee challenging the judgment of the Andhra Pradesh High Court was dismissed by the Supreme Court. The order passed by the Supreme Court does not contain the facts of the case. It was simply a dismissal of Special Leave Petition during the time of admission.

12. The very same issue came up for consideration before the Madurai Bench of this Court in W.P.(MD) No.2166 of 2006. Similar agreement entered into between UGC and Madurai Kamaraj University was the subject matter in the said writ petition. The learned Single Judge considered the agreement in the light of the clarifications issued by UGC from time to time and arrived at a conclusion that the post of Co-ordinator in EMRC is an Academic Post. The said judgment would apply even to the case of the petitioner.

13. The Pay Master, viz., UGC considered the post of Producer as a Teaching Post. However, University in its capacity as Pay Disbursing Officer takes a contrary position by flouting the terms and conditions of the memorandum of understanding.

14. The petitioner continued to work as Producer pursuant to the interim order passed by this Court. The respondents have not filed any application to vacate the interim order. The petitioner completed his service and is due to retire on 31 January 2015.

15. The documents available on record very clearly shows that the post of Producer has always been considered as teaching post. Since it is a teaching post, the petitioner is entitled to continue till 60 years. I am therefore of the view that the impugned order is liable to be set aside.

Disposition:

16. In the result, the impugned order dated 11 October 2010 is set aside. The petitioner is permitted to work as Producer till he attains the age of 60 years. The first respondent is directed to disburse the arrears of salary and other attendant benefits to the petitioner as expeditiously as possible and in any case within a

period of three weeks from the date of receipt or production of a copy of this order.

17. The writ petition is allowed as indicated above. Consequently, the connected MPs are closed. No costs.

Sd/-
Assistant Registrar
Dated:3.2.15

True Copy

Sub Assistant Registrar

To

1. The Anna University
Rep. by its Registrar
Chennai-600 025.
2. The Secretary
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Bahadur Shah Zafar Marg
New Delhi-110 002.
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Chennai-600 025.

+1 cc to M/s.Row & Reddy, Advocate,SR.5140.

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krd 3/2

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