

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2015

CORAM:

The Honourable Mr.Justice K.K.SASIDHARAN

W.P.No.29718 of 2010
& M.P.No.1 of 2010

Dr.K.Kuppusamy

..Petitioner

-Vs.-

1. Anna University
Rep. by Registrar
Chennai-600 025.
2. The Registrar
Anna University
Chennai-600 025.
3. The Director
Centre for Faculty Development
Anna University
Chennai-600 025.

..Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari calling for the records of the second respondent culminating in its order in proceedings No.5135/CTDT-1/2004 dated 15 September 2010 and to quash the same.

For Petitioner : Mr.N.L.Rajah
For Respondents: Mr.M. Vijayakumar

ORDER

This writ petition is directed against the order dated 15 September 2010 whereby and whereunder Anna University rejected the request made by the petitioner and his team members to pay remuneration.

Background Facts:

2(a) The petitioner as the Chairman of the faculty of Electrical Engineering took the initiative to introduce a new laboratory course "EEE435 Power System Simulation Laboratory" in the existing curriculum of B.E. Electrical and Electronic Engineering. The said proposal was considered by the Anna University in its

meeting held on 6 December 2003. The proposal was approved by way of a resolution for introduction of the new laboratory course in the curriculum of B.E. Electrical and Electronics Engineering.

(b) The petitioner also proposed a software package to conduct the laboratory course and constitution of a committee for implementation of the proposal to develop the software. Accordingly a committee was constituted by the Vice Chancellor with the Professor of Electrical Engineering as Convenor and three persons including the petitioner as members for the purpose of development of software modules required for the laboratory course "Power System Simulation", preparation of documents relating to software such as user manual and programme reference manual etc. The Committee was directed to complete the work by the end of March, 2004 so as to enable the University to communicate to the affiliated colleges for implementation in the VII Semester of B.E. Electrical and Electronics Engineering commencing from June, 2004.

(c) In response to the said communication the petitioner as per his letter dated 19 March 2004 sought details about the project, expenses for developing the project etc. In the said letter it was also stated that the project might be considered as a consultancy project. The second respondent as per proceedings dated 19/23 March 2004 granted necessary approval to undertake the project. In the said communication, it was clearly stated that the project should be administered as per norms established for a consultancy project by the University.

(d) The second respondent as per proceedings dated 25 March 2004 informed the principals of all affiliated colleges about the new course and the software and indicated that the affiliated colleges can either procure the required software modules for the course from open market or go in for in-house development or may contact the writ petitioner, being Chairman, Faculty of Electrical Engineering as well as Member of the Committee for development of fresh software. As per proceedings dated 22 January 2004 norms for calculation towards distribution of consultancy charges were prescribed by the Anna university wherein 64.5% received on account of the consultancy charges were to be distributed to the project team.

(e) The petitioner and other members of the team developed the software package AU Power Lab and distributed the software with relevant training to thirty three colleges under Phase-I. Subsequently, the petitioner raised a bill amounting to Rs.24.948 lakhs representing the consultancy charges collected from thirty three colleges. The said bill was approved by the Anna University officials and the same was submitted to the Vice Chancellor for approval. The Vice Chancellor has accordingly approved the said bill as well as the note appended to the bill certifying that the

consultancy charges have been checked by the Professor of Planning and Development Section and found to be as per the University norms.

(f) Subsequently the second respondent as per letter dated 26 July 2004 sought certain clarification with respect to the software development of the petitioner and his team and accordingly they have submitted a detailed report on 12 August 2004 which was followed by another letter by the second respondent dated 5 October 2004 addressed to the third respondent raising objections to certain particulars provided by the co-ordinator and sought further clarifications to enable the second respondent to take a decision on the norms for pricing the software consultancy project. Later the petitioner came to know that a committee was constituted to fix the norms of distribution of revenue between the University and the project team.

(g) While the matter stood thus, the petitioner received the order dated 22 September 2005 addressed to the Co-ordinator of the project fixing a sum of Rs.10.24 lakhs as one time honorarium to the team to be distributed to the team members with indication that the ownership of the package on payment of the said sum would vest with the University. The order further directed the team members to hand over the developed source code and the executable version of AU Power lab simulation software to the University. The said order was challenged by the petitioner in W.P.No.1746 of 2006.

(h) The writ petition in W.P.No.1746 of 2006 was allowed by this Court and a mandamus was issued to the University to consider the matter afresh after hearing the project team and in the light of the relevant observation. The Anna University pursuant to the said order, considered the issue and ultimately rejected the request. The said order is under challenge in this writ petition.

Submissions:

3. The learned counsel for the petitioner contended that Anna University omitted to consider the fundamental fact that the team members, who developed the software had put in long hours of work. However they were denied the enjoyment of the fruits of their dedication and knowledge in developing the software. According to the learned counsel in case the University was of the view that the maximum amount payable would be the salary per year, they should have paid the salary for three years inasmuch as the project continued from 2003 to 2005. According to the learned counsel, the University rejected the request without any valid reason.

4. The learned Standing Counsel for the University justified the impugned order.

Factual Analysis:

5. This is a second round of litigation involving the University and its faculty members. This Court in the earlier writ petition clearly observed that the terms and conditions of the consultancy project and the division of profits between the University and the project team are clearly found in the guideline dated 10 June 1995. This court therefore observed that there is no difficulty about the mode of distribution of consultancy charges. This Court further observed that a binding contract has been entered into between the University and the faculty members..

6. The proceedings dated 16 July 2010 on the file of the University shows that the members of the project team are entitled to get their remuneration subject to a maximum of their annual salary of the year 2004. The University is therefore of the view that the maximum limit for payment should be restricted to the maximum amount of salary for a period of one year. The University appears to have been under the impression that the project has come to an end within a period of one year from inception. However the fact remains that the project has been distributed over three years from 2003 to 2005. The project involves three components viz., (i) Development of software (ii) Training of faculty and (iii) Maintenance of software for a period of one year from the date of supply of software. Since the project continued for three years, the University was not correct in restricting payment for a period of one year. If the analogy as indicated in the proceedings of the University dated 16 July 2010 is taken, the project team should be paid annual salary for three years, more particularly from 2003 to 2005. Since it is very clear that the project continued for three years, necessarily the project team should be paid remuneration for a period of three years. I am therefore of the view that the petitioner is justified in his contention that the decision to pay remuneration for a period of one year is unreasonable.

Disposal:

7. In the result, the impugned order dated 15 Septemb2005 2010 is set aside. The second respondent is directed to pay remuneration to the members of the project team for a period of three years taking into account the maximum of their salary for the said period. The payment should be made as expeditiously as possible and in any case within a period of two months from the date of receipt of a copy of this order.

8. The writ petition is allowed to the extent indicated above.
Consequently the connected MP is closed. No costs.

Sd/-
Assistant Registrar

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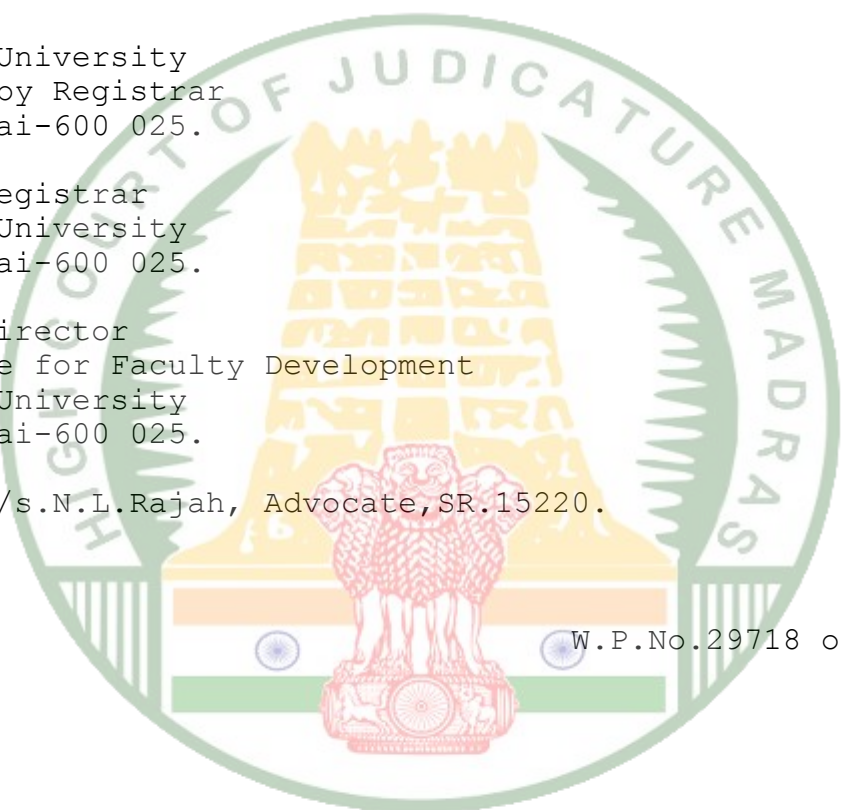
Sub Assistant Registrar

To:

1. Anna University
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Chennai-600 025.
 2. The Registrar
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Chennai-600 025.
 3. The Director
Centre for Faculty Development
Anna University
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- +1 cc to M/s.N.L.Rajah, Advocate, SR.15220.

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