

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO

W.P.No.14940 of 2015
and
M.P.Nos.1 and 2 of 2015

Dr.D.Devanathan (I.D.No.4251),
S/o M.Deivasigamani,
Associate Professor,
Political Science and
Public Administration Wing,
Directorate of Distance Education,
Annamalai University,
Chidambaram-608 002. .. Petitioner

Vs.

1. The Registrar,
Annamalai University,
Annamalai Nagar,
Chidambaram-608 002.
2. Dr.C.Subramanian (I.D.No.4423),
Associate Professor,
Political Science and
Public Administration Wing,
Directorate of Distance Education,
Annamalai University,
Chidambaram-608 002. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the first respondent in his proceedings in University Order No.319/2015 (C), dated 06.05.2015 and quash the same and consequently direct the first respondent to permit the petitioner to continue his duty as 'Associate Professor and Wing Head' until his tenure.

For petitioner : Mr.Stalin Abhimanyu

For respondents: Mr.R.Suresh Kumar for R-1
Mr.V.Stalin for M/s.Row and Reddy for R-2

ORDER

The writ petitioner herein sought for issuance of a Writ of Mandamus for declaring the proceedings of the first respondent, dated 06.05.2015 as illegal and unsustainable and to direct the first respondent to permit the petitioner to continue his duty as 'Associate Professor and Wing Head' until his tenure.

2. Heard Mr.Stalin Abhimanyu, learned counsel appearing for the writ petitioner, Mr.R.Suresh Kumar, learned Standing Counsel appearing for the first respondent-Annamalai University and Mr.V.Stalin, learned counsel appearing for M/s.Row and Reddy, for the second respondent.

3. The controversy in this Writ Petition lies in a very narrow compass. The petitioner claims to be the senior-most teacher in the Department of Political Science and Public Administration of the first respondent-Annamalai University. In my opinion, it may not be really necessary to enter into any debate with regard to this statement of fact, notwithstanding the fact that an attempt has been made to do so by the opposite side. The fact remains that the petitioner has been nominated/appointed as the Wing Head for Political Science and Public Administration of the Directorate of Distance Education of the University with effect from 31st January 2008. He is discharging functions of the Head of the Wing ever since then. By the impugned order in University Order No.319/2015(C), dated 06.05.2015, the second respondent has been appointed as the Wing Head in the place of the writ petitioner, who was directed to hand over the charge of the Wing Head to the second respondent. Challenging this order, the present Writ Petition has been filed.

4. Learned counsel appearing for the petitioner strenuously submitted that the writ petitioner being the senior-most teacher in the faculty, should not have been booted out in the manner in which the University attempted through the impugned order. According to the learned counsel, the affairs of the Annamalai University are now regulated by virtue of the Annamalai University Act, 2013 (Tamil Nadu Act 20 of 2013) (hence-forth referred to for brevity as 'the Act'). Section 46 of the Act deals with the terms and conditions of service of Heads of Department. Sub-section (3) thereof, which has certain bearing controversy in the present case, reads as under:

"(3). A person appointed as Head of the Department shall hold office as such for a period of three years and shall be eligible for reappointment. "

5. Learned counsel for the petitioner further submitted that the Act has been brought into force only on 25.09.2013 and hence, the three year period prescribed under Section 46(3) of

the Act will expire on 24.09.2016 and even before the expiry of the period as stipulated under the said Act, the impugned order has been passed on 06.05.2015 itself, and therefore, the said order is illegal.

6. It is further contended by the learned counsel for the petitioner that the second respondent is not the next senior-most teacher to that of the writ petitioner and hence, the second respondent should not have been nominated/appointed as the Head of the Wing, and therefore, subsequent direction issued by the impugned order commanding the writ petitioner to hand over the charge to the second respondent, is further unsustainable.

7. I am afraid that both the above contentions would hold water. Firstly, the Act has been brought into force on 25.09.2013. What Section 46 of the Act sets out is the terms and conditions of service of Heads of Department and sub-section (3) therein enumerated that the person appointed as Head of the Department shall hold office as such for a period of three years. Take a case where a person is already appointed as the Head of Department/Head of the Wing much prior to the coming into force of the Act on 25.09.2013 and he also completed three years of service as such. This provision enables the University to choose some other individual to be appointed as Head of the Department/Head of the Wing. That is the precise reason why the statute-maker has used the expression "appointed" in sub-section (3) to Section 46 of the Act. By using the past tense of the verb "appoint", the statute-maker obviously intended to make applicable this provision even to those persons who have been appointed as Head of the Department/Head of the Wing prior to the coming into force of the Act itself. So far as those who are likely to be appointed after coming into force is concerned, Section 46 does not pose any problem, inasmuch as sub-section (3) makes it abundantly clear that any such appointment as Head of the Department/Wing Head will be for a period of three years, which period has to be reckoned from the date of appointment. Therefore, sub-section (3), in my opinion, is intended to cover the cases of those who have already been appointed prior to the coming into force of the Act. The case of the writ petitioner falls within the sweep of sub-section (3) of Section 46 and since he has been appointed with effect from 31.01.2008 as Head of the Wing and three year period has already expired by 25.09.2013, the date on which the Act has been brought into force, the University is at liberty to replace the writ petitioner as Head of the Wing. Therefore, far from the fact that the impugned order dated 06.05.2015 being illegal, it is in conformity with the provisions of Section 46 of the Act.

8. The controversy as to whether the second respondent is the senior-most in the faculty or not, does not detain me any further. When once rotational scheme has been followed by the University for the purpose of appointing/nominating the persons as Heads of the Department/Heads of the Wing as to who should be the next person, the same can be regulated by either the Ordinance made by the University or by the rules and regulations framed inter-se. In no case, an arbitrary method of picking and choosing shall be resorted to. The position as Head of the Department/Head of the Wing though essentially is meant to bring-forth the refreshing improvements to the administrative functions of the faculty, but none-the-less, such position occupies a certain amount of respectable position in the academic circles. Therefore, subject to the rules and regulations or the Ordinance governing the scheme, rotational method of appointing Head of the Department/Head of the Wing shall be scrupulously followed by the University. In fact, the learned Standing Counsel of the University asserted that the University is not picking or choosing the persons arbitrarily, but it is following the uniform procedure and nominating/appointing the faculty members as Head of the Department/Head of the Wing on rotational basis. The learned Standing Counsel further asserted that in as many as 20 Departments are concerned, replacements have been ordered. I hope and trust that Annamalai University, unfortunately, which has not been impleaded in the Writ Petition by the name of the University, but by the name of the Registrar, as such, would follow the said procedure or pattern and appoint one faculty or the other, either as Head of the Department or Head of the Wing in the Directorate of Distance Education of the University by adopting the rotational method as is conceived under Section 46 of the Act.

9. The Writ Petition is otherwise merit-less and it stands accordingly dismissed. No costs. The Miscellaneous Petitions are closed.

10. Before parting with this case, it is almost necessary to record the statement made by the learned counsel on behalf of the second respondent that the second respondent has already assumed charge as Head of the Wing pursuant to the impugned order, dated 06.05.2015 and he is functioning as such.

cs

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

Copy to

The Registrar,
Annamalai University,
Annamalai Nagar,
Chidambaram-608 002.

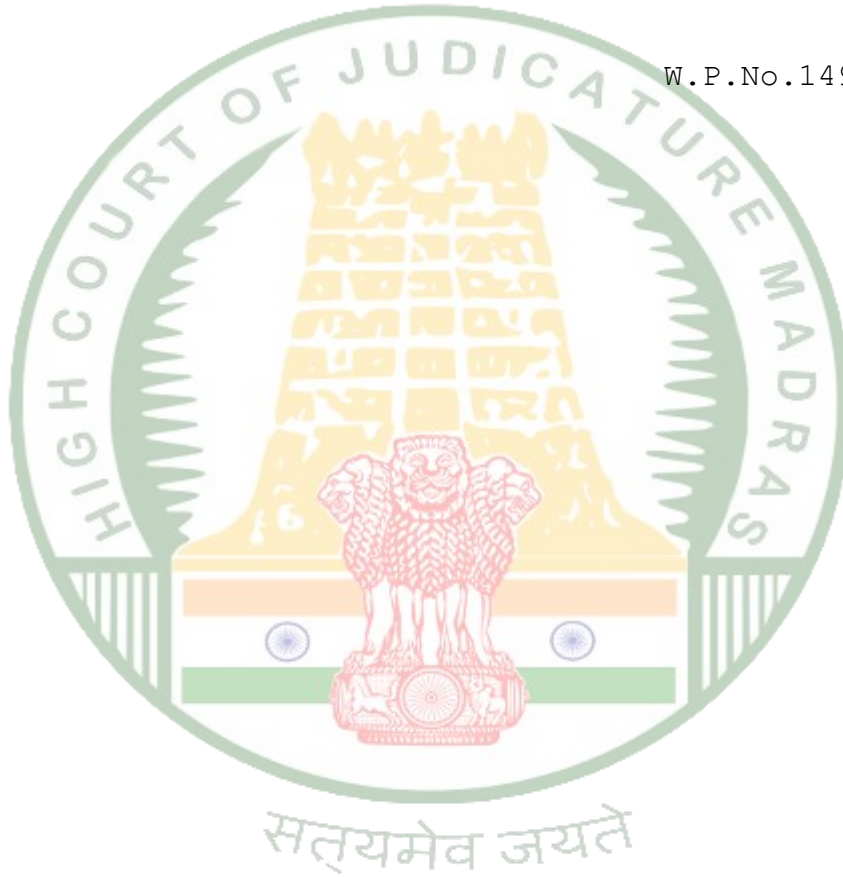
+ 1 cc to M/s.C.Prabakaran, Advocate SR 25606

+ 1 cc to M/s.Row and Reddy Advocate sr 25121 dt:11/05/2016

+ 1 cc to Govt.Pleader SR 25450

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