

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.38847 of 2015
and
MP.No.2 of 2015

S. Saravanaraj ..Petitioner
vs.

1.State Bank of Tamil Nadu,
Rep. By its Secretary to Government,
Higher Education Department,
Fort St.George,
Chennai.

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

..Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in his University Order No.928/(C1)/2015 dated 28.11.2015 and quash the order dated 28.11.2015 in so far as the petitioner is concerned and direct the respondents to allow the petitioner to continue the post of Special Officer with all consequential benefits and with the pay band of Rs.15,600-Rs.39,100+Grade Pay of Rs.5,400.

For Petitioner :Mr.M. Sivavarthan

For Respondents :Mr.K.C.Maniasu

ORDER

This writ petition is filed for issuance of a writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in his University Order No.928/(C1)/2015 dated 28.11.2015 and quash the same, in so far as the petitioner is concerned and direct the respondents to allow the petitioner to continue in the post of Special Officer, with all consequential benefits and with the pay band of Rs.15,600-Rs.39,100+Grade Pay of Rs.5,400.

2. It is stated by the learned counsel for the petitioner that the petitioner has completed S.S.L.C and +2 and joined Bachelor of Engineering (B.E) in computer science & Engineering at Annamalai University. He was awarded degree of Bachelor of Engineering (B.E) in May, 2002. He has completed Master of Library and Information Science (M.L.I.S) during May, 2008 at Annamalai University. The decree of M.L.I.S is a post graduate course apart from this decree, he holds the post of Master of Business Administration (MBA) and Master of Philosophy in Library and Information Science.

3. The petitioner applied for the post of Special Officer at the 2nd respondent University and he was appointed as Special Officer in the Directorate of Distance Education Information Centre at Udumalaipet by order dated 04.12.2008. Though the petitioner was holding a Post Graduate degree (M.L.I.S), at the time of applying for the post of Special Officer, the petitioner gave particulars only about his B.E., qualification in his application. The service of the petitioner was confirmed by orders of Vice Chancellor and it was informed to him by the 2nd respondent on 13.01.2011.

4. At the time of the appointment of the petitioner, the 2nd respondent University was governed by the Annamalai University Act, 1928 and thereafter, the University was taken over by State of Tamil Nadu in the year, 2013 and now, it is a Government University. After taking over the University, the first respondent appointed an Administrator and now, the 2nd respondent is under the control of the State Government. While so, the Administration has found certain irregularities in the 2nd respondent University. Therefore, it ordered for enquiry. The petitioner herein was issued a show cause notice dated 15.07.2013 by the 2nd respondent under the order of Administrator. In the show cause notice, it is contended by the 2nd respondent that qualification for the post of Special Officer in the Annamalai University is "post graduation with II class" as per Rule 6 of Service Rules for Clerical Staff/and other servants of the University in part (e) of the standing orders contained in chapter XXVIII of the Laws of the University. Further, according to the laws of University, the required qualification for this post is "Post Graduation with II class" and therefore, he is not entitled to hold the post of Special Officer in the Annamalai University.

5. The petitioner submitted a detailed explanation dated 29.07.2013 and informed the 2nd respondent through the Director, Directorate of Distance Education that the petitioner has completed M.L.I.S with I class, prior to his appointment and this detail is already entered in his service register on

30.03.2010 and therefore, request the 2nd respondent to permit him to continue as Special Officer in Annamalai University. After submission of explanation, no enquiry was conducted. Hence, the petitioner made remainder on 29.10.2015. But all of a sudden, the 2nd respondent has issued an order on 28.11.2015, re-designating the petitioner and other Special Officers as Special Officer Grade II and revised the pay band of the petitioner to Rs.9.300-34,800+Grade Pay of Rs.5,100. Before the issuance of the impugned order, the petitioner was receiving the salary in the pay band of Rs.15,600-39,100+ Grade Pay of 5,400. Challenging the order of the 2nd respondent, the present writ petition has been filed.

6. When the matter is taken up for consideration, learned counsel for the petitioner submitted that the entire proceedings has been conducted behind the back of the petitioner and there is no transparency in the proceedings. If the petitioner has been provided with an opportunity of hearing before passing the impugned order, he would have placed all the relevant facts before the 2nd respondent.

7. The letter dated 16.06.2016 has been produced by the learned counsel for the petitioner bearing No:C1-8/PRMO No.2989/2015-16, wherein it is stated that the petitioner's request has been already placed before the Syndicate of the University and the Syndicate has resolved to wait for the outcome of the present writ petition. Since no opportunity was given, this court finds no justification in the order of the 2nd respondent and before passing the order, the petitioner should have been given an opportunity of hearing. Therefore, it would be appropriate to set aside the impugned order of the 2nd respondent and to remand the matter back to the 2nd respondent for fresh consideration.

8. Accordingly, the impugned order is set aside and the matter is remanded back to the second respondent for fresh consideration. The second respondent shall pass orders within a period of six weeks from the date of receipt of a copy of the order after affording an opportunity to the petitioner.

With the above direction, the writ petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.State Bank of Tamil Nadu,
Rep. By its Secretary to Government,
Higher Education Department,
Fort St.George,
Chennai.

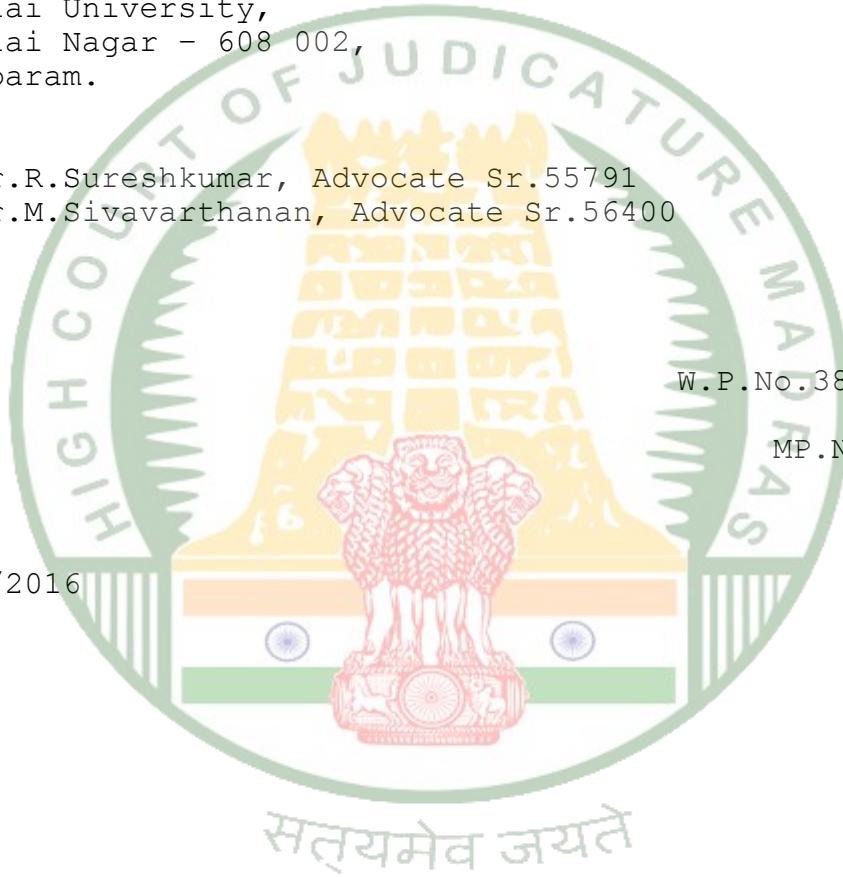
2.The Registrar,
Annamalai University,
Annamalai Nagar - 608 002,
Chidambaram.

+1cc to Mr.R.Sureshkumar, Advocate Sr.55791

+1cc to Mr.M.Sivavarthanan, Advocate Sr.56400

W.P.No.38847 of 2015
and
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