

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2016

CORAM :

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

W.P.No.13563 of 2010

K.RANGARAJAN

.. Petitioner

Vs.

1. THE JOINT DIRECTOR OF COLLEGE
EDUCATION DPI COMPLEX COLLEGE ROAD
CHENNAI-6

2 THE COLLEGE COMMITTEE AND
P.T.LEE CHENGALVARAYA NAICKER TRUST NO.2-3
E.V.K.SAMPATH SALAI VEPERY CHENNAI-7

... 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 on the file of the second respondent in connection with his proceedings No.P.T.Lee C.N.T./1046/2010 dated 20.5.2010 and quash the same and direct the respondents to reinstate the petitioner in service as the Lecturer in Chemistry Department of P.T.Lee Chengalvaraya Naicker College of Engineering and Technology Oovery Kancheepuram Dist. with all service and monetary benefits.

For Petitioners : Mr.R.Singgaravelan

For R1 : Mr. P.Sanjay Gandhi
A.G.P

For R2 : Mr. Jothimanian

ORDER

The prayer in the writ petition is for a writ of certiorarified mandamus, to call for the records on the file of the second respondent

in connection with his proceedings No.P.T.Lee C.N.T./1046/2010 dated 20.5.2010 and quash the same and direct the respondents to reinstate the petitioner in service as the Lecturer in Chemistry Department of P.T.Lee Chengalvaraya Naicker College of Engineering and Technology Oovery Kancheepuram Dist. with all service and monetary benefits.

2. The case of the petitioner is that he was selected and appointed to the post of lecturer in Chemistry in the second respondent college, viz., P.T.Lee Chengalvaraya Naicker College of Engineering and Technology, Kancheepuram in May 2009. The qualification prescribed by the said post are Post Graduate degree with no experience. When the petitioner was selected and appointed, he possessed Post Graduate Degree and B.Ed Certificate and the respondents did not insist for any M.Phil degree at the time of appointment and to the best of the knowledge of the petitioner AICTE ie.,All India Council for Technical Education regulations did not insist for any M.Phil Degree for appointment to the post of lecturer. Thereafter, so many persons employed in the second respondents college without M.Phil Degree and the petitioner was one among them. While so, the second respondent without any prior notice passed an order of termination dated 20.5.2010 terminating the services of the

petitioner as Lecturer at the second respondent college. The very order dated 20.5.2010 which is impugned herein is a non speaking order and after the receipt of the same when the petitioner approached the second respondent, it was orally informed to him that since he did not have M.Phil Degree, he was not eligible to hold the post of Lecturer and therefore, he was terminated. Challenging the said termination order, the petitioner has come forward with the present petition with the aforesaid prayer.

3. Heard both sides.

4. The learned counsel appearing for the petitioner would contend that only pursuant to the advertisement called for by the second respondent's college management, the petitioner with the aforesaid qualification had applied and accordingly, the petitioner was selected and appointed to the post of Lecturer in Chemistry. Since the petitioner is having the qualification of BSC and MSC, I class in Chemistry and also the qualification of B.Ed degree, he would be eligible and entitled to take classes in Chemistry at the second respondent college. It was further contended that the requirement of M.Phil qualification was never insisted at the time of appointment and

even according to the petitioner, there is no such requirement under AICTE regulations and therefore, the termination order passed by the second respondent without even any notice to the petitioner to verify her qualification is bad in law and therefore, the learned counsel for the petitioner wants the interference of this Court.

5. Per contra, the learned counsel for the second respondent would contend that the petitioner was no doubt appointed as Lecturer in Chemistry at the second respondent college. At the time of the appointment and even after that, the qualification which the petitioner was having is only MSC and B.Ed. The necessary qualifications for appointment as Lecturer subsequently, re-designated as Assistant Professor is Post Graduation with 55% marks and also a Ph.D degree or in alternative having passed SLET or NET test. Without these essential qualifications which are very much required for the persons to hold the post of Lecturer/Assistant Professor in a college like the second respondent, the petitioner was appointed and therefore, when the same was pointed out by the Anna University which is the affiliating university of the second respondent college during the inspection not only the petitioner, six persons including the petitioner, who were also similarly appointed without the required qualification

were terminated.

6. Therefore, the learned counsel appearing for the second respondent would contend that it was done strictly in consonance with the regulations of AICTE which is a Central Authority created under an Act of Parliament for co-ordinating the technical education in the country has prescribed the minimum qualification for teaching faculties to be employed in Engineering Institutions such as the second respondent and also the qualification prescribed by the affiliating University, viz., Anna University. When the norms prescribed by these approving as well as affiliating bodies of the second respondent have not been fulfilled by the petitioner, the very appointment made to the petitioner itself is illegal and therefore, the same cannot be permitted to be perpetuated. Therefore, the learned counsel for the second respondent wants the writ petition to be dismissed.

7. This Court has heard the rival submissions made by the respective counsel.

8. Insofar as the the qualification of the petitioner is concerned, it is an admitted fact that the petitioner was having a qualification of

MSC and B.Ed and he did not have qualification of even M.Phil or Ph.D, even there is no proof to show that the petitioner had passed or qualified NET or SLET which is also one of the mandatory requirement in lieu of Ph.D degree for the purpose of appointment of Lecturers in any UG level institutions. Since the second respondent institution is an Engineering institution which is governed by the regulations of AICTE only on the satisfaction of the same, the Engineering institutions would be approved by the AICTE. Even after the approval, the Engineering institutions are affiliated to Anna University in the State of Tamil Nadu and therefore, the norms prescribed by the Anna University also have to be fulfilled.

9. Here in the case on hand, it is an admitted fact that the petitioner did not fulfill the said minimum basic qualification even at the time of entering into service or at the time of appointment at the second respondent college.

10. Law is well settled in this regard as, if the initial appointment is irregular one, the same can be rectified at a later stage, if the very appointment itself is illegal, the same cannot be cured at any point of time. Fulfilling the basic minimum educational qualification is an

essential one without which if appointment is made certainly it is illegal appointment for which no further enquiry needs to be conducted as in this case the theory of empty formalities can be pressed into service. Therefore, this Court is of the view that there is absolutely, no infirmity in the order impugned herein as the petitioner is not having any right to claim postings or continuance of his service as Lecturer in Chemistry in the second respondent College for which the petitioner admittedly, did not have qualification. Therefore, the writ petition fails and accordingly, is dismissed. No costs.

14.11.2016

Index : Yes/No

Internet : Yes/No

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R.SURESH KUMAR,J.

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