

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.1350 of 2017
and WMP.No.1280 of 2017

Dr.V.Mani

.. Petitioner

vs.

1. The Annamalai University,
Rep. by its Registrar,
Annamalai Nagar, Chidambaram.

2. The Principal Secretary/Administrator
to the Government,
Annamalai University,
Annamalai Nagar, Chidambaram.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to continue the petitioner as Assistant Professor (History) till the end of the academic year i.e., June 2017, on the basis of the representation dated 06.01.2017 by following and strictly adhering to the statutory provisions of the Annamalai University Act made in Rules under Chapter XVII, Para -8(ii) and to pass such further orders.

For Petitioner : Mr.L.Chandrakumar
For Respondent : Mr.V.R.Kamalanathan

O R D E R

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner would aver that after acquiring M.A., M.Phil. (History), he was selected and appointed as Lecturer on 23.03.2004 in the Annamalai University and the said post was re-designated as Assistant Professor. The petitioner also possess P.hd. and he is due to retire on attaining the age of superannuation on 31.01.2017. According to the petitioner, as per Annamalai University Act, 2013 and Regulations framed thereunder, if the superannuation falls during the mid-stream of the academic year, the officer concerned shall be continued on re-employment till the end of the academic year upto June and since the petitioner is going to attain superannuation on

31.01.2017, he has to continue till the completion of the academic session upto June 2017 and therefore, came forward to file this writ petition.

3. Mr.L.Chandrakumar, learned counsel appearing for the petitioner has drawn the attention of this Court to Statute No.8 (ii) in Chapter XVII of the Annamalai University Act and would submit that as per the said Statute, a person so confirmed will normally be continued in service till he attains the age of 60 years, provided where a teacher of the University attains the age of 60 in the course of any academic year, his service shall ordinarily be continued till the end of the academic year and since the said Statute cast a mandate upon the University to continue the services of the petitioner till the completion of the academic year upto June 2017, prays for positive orders.

4. Per contra, Mr.V.R.Kamalanathan, learned Standing Counsel appearing for the respondents has drawn the attention of this Court to the counter affidavit and would state that the Government of Tamil Nadu has taken over the direct control of Annamalai University through the Annamalai University Act, 2013 and taken various steps to set right the financial crisis and one such process is finding of surplus teachers in the University in all disciplines and deputing them in various Government Colleges/Institutions and insofar as the subject of History is concerned, 37 numbers of Assistant Professors have been identified as surplus and they have been posted in various Government Arts and Science Colleges and taking into consideration of the fact that the petitioner is going to attain the age of superannuation, his post was not identified and due to severe financial crisis, the request made by the petitioner to continue till the completion of the academic year cannot be considered and prays for dismissal of this writ petition.

5. This Court has considered the rival submissions and also perused the entire materials placed before it.

6. It is relevant to extract para 3 of the counter affidavit:

"3. During 2013, the Government of Tamil Nadu has took the University under its direct control by implementing Annamalai University Act 2013 and take various steps to set right the financial issues raised in the University. One among the process is finding of surplus teachers in the University in all disciplines and deputing them in various Government Colleges/Institutions. While finding surplus teachers position in the History subject, 37 Nos. of Assistant Professors have been identified as surplus in the first instance and they have been posted in various Government Arts & Science Colleges. Now they are working in the posed colleges from February 2016.

Hence, the reason of suffering of students does not arise in this case, as there are surplus staff members in History subject. Hence, no students are suffered due to his retirement in January 2017. Also, the petitioner is eligible to continue to guide his research scholars upto a period of 6 months after his superannuation."

7. Analysis of the Annamalai University Act, 2013 would disclose that discretion has been given to the University where a teacher who has attained the age of 60 in the course of any academic year, his services shall ordinarily be continued till the end of the academic year. The first respondent in para 3 of the counter affidavit took a stand that in the subject of History, 37 numbers of Assistant Professors have been identified as surplus and they have been posted in Government Arts and Science Colleges and in order to minimise the financial burden to the University, the said decision has been taken. It is also indicated in the counter affidavit that despite the fact that the petitioner is attaining the age of superannuation on 31.01.2017, he is allowed to continue for a period of six months after his superannuation to act as a Guide for Ph.d scholars. In the considered opinion of the Court, the stand of the second respondent is taken in the best interest of the institution, namely the Annamalai University and it cannot be found fault with.

8. At this juncture, the learned counsel appearing for the petitioner made an alternative plea that since the petitioner is reaching the age of superannuation on 31.01.2017, his terminal benefits may be directed to be disbursed, in the light of the stand of the second respondent that the University is having financial crisis

9. The Court heard the submissions of the learned counsel appearing for the respondents who would submit that as per seriatum, terminal benefits of retired employees are settled and insofar as the petitioner is concerned, his terminal benefits will be disbursed as expeditiously as possible.

10. In the result, this Writ Petition is dismissed. However, taking into consideration the plea made by the learned counsel appearing for the petitioner for early settlement of terminal benefits, the respondents shall make every endeavour to disburse

the terminal benefits due and payable to the petitioner as expeditiously as possible and not later than 12 weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is dismissed.

s/d-
Assistant Registrar (CS-II)

//True Copy//

Sub-Assistant Registrar

+1 CC to Mr. L. Chandrakumar, Advocate sr 5806
+1 CC to Mr. V.R. Kamalanadhan, Advocate sr 5718

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