

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.09.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.11536 of 2004
and
W.P.M.P.No.13583 of 2004

1.N.S.Vasudevan
2.N.Vijayakumar
3.A.Arputhasamy
4.P.Arumugam
5.R.Jayavasagar

... Petitioners

Vs

The Registrar,
Gandhi Gram Rural Institute (Deemed University),
Gandhi Gram,
Dindigul District.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondent herein to absorb the petitioner permanently to the post of watchman in the respondent University.

For Petitioner :Mr.G.Nagarajan

For Respondents :M/s.Ma.P.Thangavel
for R1

ORDER

The writ petition has been filed by the petitioners seeking for issuance of a Writ of Mandamus to direct the respondent herein to absorb the petitioners permanently to the post of watchman in the respondent University.

2. The petitioners are originally employed in the respondent University and they were terminated from their service. Therefore, the petitioners have filed this petition for the aforesaid prayer.

3. Today when the matter is taken up for hearing, the learned counsel for the petitioner fairly submitted that originally they have employed in the respondent University and subsequently, they were terminated from their service. At this

stage, it is pertinent to note that the respondent Univeristy is a deemed univeristy, in which there are eleven permanent vacancies were sanctioned, 100% grant given by the University Grant Commission, New Delhi. The petitioners are retired Ex-serviceman in defence and had been employed with the respondent University for the post of Watchman eversince from 1996. Hence, there is no justification of the part of the respondent in not absorbing the petitioners to that available permanent post of Watchman. Hence, this petition may be allowed.

4. The learned counsel for the respondent filed a counter affidavit wherein paragraph Nos.4 and 5, read as follows:

(4) With regard to the averment in para 3, it is humbly submitted that the institute is receiving 100% grant from Ministry of Human Resource Department (MHRD) Government of India through University Grants Commission (UGC). Hence, it is mandatory for the institute to follow the UGC instructions/guidelines in the matter of any appointment and functioning. The UGC in its letter No.D.O.F.1-57/2001 (CPP-III) dated 31.08.1999 has imposed ban on filling up of vacant posts. Even ignoring the above UGC instructions, the institute paid time scale of pay for the 2nd and 3rd petitioners. By knowing this the UGC vide its letter No.F.1-16/97 (DU), dated 26.07.2000 informed that the UGC decided to with hold 10 lakhs of rupees from the grant on account of irregularities for filling of non-teaching posts during ban period without the approval of UGC and non-implementation of review of higher scales given to non-teaching staff. Hence, the institute has no other alternative except to withdraw the time scale of pay granted to the 2nd and 3rd respondents. Moreover that was not challenged by them, hence it become final.

(5) With regard to the averment made in para 4, it is humbly submitted that the UGC in its letter No.D.O.F.1-57/2001 (CPP III), dated 30.04.2002 directed the University that the work related to transportation, cleanliness and security should be assigned a private agency instead of engaging regular staff for this purpose. According to the above notification of the UGC, the petitioners cannot be absorbed on permanent basis. Further in strict obedience to the UGC's instruction, the work of the security has been assigned to a private agency on contract

basis from 16.04.2004. From that date the institute is not permitted to appoint any person for security work either on temporary or on permanent basis.

5. Recording the above said submission, this writ petition is dismissed as infructuous, in the light of the counter affidavit filed by the respondent. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

The Registrar,
Gandhi Gram Rural Institute (Deemed University),
Gandhi Gram,
Dindigul District.

+lcc to Mr.G.Nagarajan, Advocate Sr. 66609

+lcc to Mr.Ma.P.Thangavel, Advocate Sr. 67057

W.P.No.11536 of 2004

PA(CO)
VR(27/10/2017)

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