



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2017

CORAM:

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.(MD) No.418 of 2017

1.R.Murugesan

2.S.G.Gunasekaran

... Appellants/Petitioners

-vs-

1.The Vice-Chancellor

Mother Teresa Women's University
Kodaikanal, Dindigul District

2.The Registrar

Mother Teresa Women's University
Kodaikanal, Dindigul District

3.The Executive Council

Mother Teresa Women's University
Kodaikanal, Dindigul District
Rep by its Vice-Chancellor

4.M.Thairiyam Vincent Raj

Reverted as Junior Assistant
Mother Teresa Women's University
Kodaikanal, Dindigul District

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 21.07.2014 in W.P.(MD).No.11017 of 2009, on the file of this Court.

Prayer in WP(MD)No.11017/2009:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARI MANDAMUS, calling for the records relating to the resolution adopted by the Executive Council in Agenda No.2009-56 in its meeting held on 27-06-2009 as modified under Item No.2009-79 in the executive council meeting held on 31-07-2009 and quash the same as illegal and consequentially to direct the respondents to cease from the petitioners as superintendents in the 2nd respondent university along with monetary benefits.



For Appellants : Mr.T.Laljapathi Roy

For Respondents : Mr.B.Pugalendhi,
Additional Advocate General
Standing Counsel for R1 to R3

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J U D G M E N T

[Judgment of the Court by T.S.SIVAGNANAM, J.]

Heard the learned counsel for the parties and perused the materials placed on record.

2. This writ appeal is directed against the order, dated 21.07.2014, made in W.P.(MD).No.11017 of 2009, which was filed challenging the resolution adopted by the Executive Council in Agenda No.2009-56 in its meeting held on 27.06.2009, as modified under Item No.2009-79 in the Executive Council Meeting held on 31.07.2009 and consequently to direct the respondents to promote the appellants as Superintendents in the second respondent University. The writ petition was disposed of by the impugned order, dated 21.07.2014.

3. At the very outset, it is pertinent to note that the impugned order is a consent order which is evident from Paragraph No.7 of the order, which reads as follows:

"7. The Learned Counsel for the petitioners, after having gone through the above affidavit, would submit that the petitioners would be satisfied if they are promoted as Assistants with effect from 05.07.2010. The said statement made across the Bar is recorded."

4. Pursuant to the undertaking given by the appellants, the Writ Court issued directions, which are contained in Paragraph No.10 of the order, which reads as follows:

"10. In the result, the writ petition is disposed of in the following terms:

(i) The petitioners shall be appointed, as undertaken before this Court, as Assistants with effect from 05.07.2010.

(ii) The second petitioner Mr.M.Thairiyam Vincent Raj would be deemed to have retired in the post of Assistant on 30.09.2013.

(iii) So far as the petitioners 1 and 3 are concerned, they shall be considered for promotion as Superintendents on their completing five years of service as Assistants with effect from 05.07.2010 and on their satisfying other conditions such as seniority etc. and on the



further condition that there is no women candidate available for promotion, as per Article 19 of the Mother Teresa Women's University Act.

(iv) The respondents shall fix the pay scale of the petitioners to the post of Assistants with effect from 05.07.2010 and pay arrears within a period of six months from the date of receipt of a copy of this order. No costs. Connected miscellaneous petitions are closed."

5. As pointed out by us earlier, the order passed in the writ petition is a consent order and pursuant to which, with effect from 05.07.2010, the appellants were promoted as Assistants and the Writ Court has rightly held that on completion of four years as Assistants with effect from the said date, on satisfying the other contentions, such as seniority etc., and if there is no women candidate available for promotion as per Article 19 of the Mother Teresa Women's University Act, the appellants will be considered for promotion as Superintendents. Therefore, the appellants cannot be aggrieved by such an order, especially when they have agreed to the date being fixed as on 05.07.2010 for promotion to the post of Assistants. Thus, for all the above reasons, we find no ground to interfere with the order passed in the writ petition.

6. In the result, the writ appeal fails and it is dismissed. No costs.

Sd/-

Assistant Registrar(CSIII)

/True Copy/

Sub-Assistant Registrar

+One cc to Mr.B.Pugalendhi, Advocate, SR.No.59916

+One cc to Mr.T.Lajapathi Roy, Advocate, SR.No.60358

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RL/3C/3P/SV/MMS/SAR4/20/6/2017

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