



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.01.2017

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD) No.83 of 2017

and

W.M.P(MD)Nos. 56 to 58 of 2017

Dr.Balasubramanian

... Petitioner

Vs.

1.The Registrar,
Manonmaniam Sundaranar University,
Abishekapatti, Tirunelveli - 627 012.

2.The Principal,
M.S.University College,
Govindaperi,
Tirunelveli District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorari calling for the records of the first respondent pertaining to the impugned order in MSU/R/ESTT.T/Transfer/2016, dated 23.12.2016 and to quash the same as illegal and arbitrary, within the time stipulated by this Court.

For Petitioner : M/s.A.D.Ganeshamoorthi

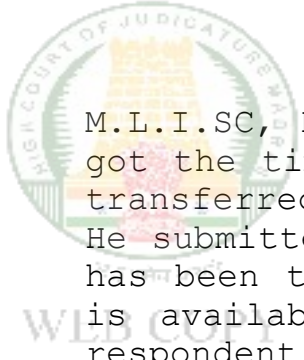
For Respondents : Mr.Mahaboob Athiff

O R D E R

This writ petition has been filed, seeking for for issuance of a writ of Certiorari calling for the records of the first respondent pertaining to the impugned order in MSU/R/ESTT.T/Transfer/2016, dated 23.12.2016 and to quash the same as illegal and arbitrary, within the time stipulated by this Court.

2.Mr.Mahaboob Athiff, learned Counsel takes notice for the respondents/University. By consent of both parties, the main Writ Petition is taken up for final disposal.

3.The Petitioner has submitted that he was appointed as Deputy Librarian in the year 2009 in the first respondent University and had completed educational qualification of



M.L.I.SC, M.phil, Ph.D, M.C.A and M.B.A. He submitted that now he got the time scale of pay. Without giving any reason, he has been transferred from the university to Manomaniam Sundaranar College. He submitted that time scale of pay is going to be reduced and he has been transferred along with the post and that no such post is available in the said college and that action of the first respondent in transferring the Petitioner along with post is bad.

4. In reply, Mr. Mahaboob Athiff, learned counsel appearing for the respondents/University would submit that the college is under the control of Manonmaniam Sundaranar University and both are situated in the same District. According to him, as per Section 61 (1) of the Manonmaniam Sundaranar University Act, 1990 and Chapter (V) (16), which is extracted below:

'61(1). The Librarian shall be a whole time officer of the University appointed by the Syndicate on the recommendation of the Selection Committee constituted for the purpose, for such period and on such terms and conditions as may be prescribed.

Chapter (V) (16): The Vice Chancellor shall be competent to transfer any officer/employee from one institution/department/centre to another institution/Department/Centre maintained by the University.'

the Vice Chancellor has got the power to post any employee from one college to another college or from one university to another college depending upon the exigency of work. He further submitted that the order got challenged only on the ground that the respondents University or the person who has passed the transfer order has no jurisdiction to do the same. Therefore it is hit by mala-fides and in case, it is punitive.

5. Admittedly, it is an administrative order and in order to develop a library in the college, he has been transferred from the University to the college along with the post from the University to college and his contention may be right, if no post exists in the college and his contention is that there is a separate post of Librarian exists and the impugned order is very clear that he has been transferred to the college to develop the library in the college. He further submitted that the apprehension of the Petitioner appears that some of the staff working in the college are getting consolidated pay and the Petitioner's pay cannot be reduced. Though the respondents have no specific instruction with regard to the submission, this Court makes it very clear the existing pay scale structure cannot be reduced if the Petitioner is allowed to join in the transferred place. In case, it is reduced, transfer order itself is liable to be interfered with. If it is reduced, it is illegal. In view of the above, this Court finds no mala-fide in the order of transfer and that the Petitioner's pay is going to be protected, this Court is not



inclined to interfere with the order impugned herein.

6. Accordingly, this Writ Petition stands dismissed. Consequently, connected Miscellaneous Petitions are dismissed. No costs.

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Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

vsn

To:

1.The Registrar,
Manonmaniam Sundaranar University,
Abishekapatti, Tirunelveli - 627 012.

2.The Principal,
M.S.University College,
Govindaperi,
Tirunelveli District.

+1cc to Mr.A.D.GANESHA MOORTHY Advocate Sr.No. 680

+1cc to M/S AJMAL ASSOCIATES Advocate Sr.No.1038

JAM/11.01.2017/SKN-/SAR 1/3P-5C

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