

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

and

THE HON'BLE SRI JUSTICE M. GANGA RAO

Writ Appeal Nos.1649, 1653 and 1656 of 2017

W.A.No.1649 of 2017

Between:

M/s. Maulana Azad National Urdu University Central,
University established under the Maulana Azad National
Urdu University Act II of 1997, Gachibowli, Hyderabad,
Represented by its Vice Chancellor and another

... Appellants

Vs.

Avula Satya Sai Kumar, S/o A. Satyanarayana,
Aged about 32 years, Occ: Asst. Professor,
R/o H.No.5-47, Raidurg, Serilingampally Mandal,
Ranga Reddy District and another

.. Respondents

W.A.No.1653 of 2017

Between:

The Registrar, Maulana Azad National University,
Gachibowli, Hyderabad and another

... Appellants

Vs.

Dr. Kahkashan Tabbasum, D/o Md. Osman,
Aged about 38 years, Assistant Professor,
(Computer Informatics, CS & IT Dept),
Maulana Azad National University, Gachibowli,
Hyderabad

.. Respondents

W.A.No.1656 of 2017

Between:

Maulana Azad National Urdu University, Gachibowli,
Hyderabad, represented by the Vice Chancellor and
another

... Appellants

Vs.

Md. Abdul Saifulla, S/o late Abdul Jabbar, aged about
37 years, Occ: Assistant Professor (CS & IT Dept),
R/o Flat No.112, 1st floor, Opp: A1 Kirana Stores,
Masjid Street, Rahmat Gulshan Colony, Gachibowli,
Hyderabad and another

.. Respondents

For Petitioner : Mr. K. Ramakanth Reddy,
standing counsel

For Respondents : Mr. Venkateswarlu Posani,
Mr. M. Ram Gopal Rao,
Mr. S. Khader Mohiddin



HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE M. GANGA RAO

Writ Appeal Nos.1649, 1653 and 1656 of 2017

COMMON ORDER: (V. Ramasubramanian, J)

Aggrieved by a common order passed by the learned single Judge in three writ petitions filed by the Assistant Professors whose services were terminated by the University, the University has come up with the above three writ appeals.

2. Heard Mr. K. Ramakanth Reddy, learned counsel appearing for the appellant-University.

3. The appellant is a University established under the Maulana Azad National Urdu University Act II of 1997. The University issued notifications for appointments, in September 2011. The respondents applied and they were selected for the posts of Assistant Professors in the Department of Computer Science and Information Technology. The respondents were issued orders of appointment on 08-12-2011 and joined on 08-12-2011.

4. The respondents did not have a Ph.D. degree. Therefore, as per the UGC Regulations, the respondents were obliged to pass NET/SET. Therefore, the orders of appointment stipulated that the respondents should pass NET/SET within a period of two years from the date of appointment.

5. It appears that the respondents appeared for NET/SET within two years from the date of appointment. But the results were

declared immediately after the respondents completed two years of service.

6. Therefore, reading the terms and conditions of the orders of appointment and the UGC Regulations with magnifying glasses, the appellant-University terminated the services of the respondents, on the ground of non-fulfilment of the terms and conditions of appointment and the UGC Regulations.

7. Aggrieved by the orders of termination, the respondents filed writ petitions. In the meantime, the University also issued a fresh notification for recruitment, and hence, the same was also challenged.

8. In two out of three cases on hand, a learned Judge of this Court also granted interim orders, but the same were not implemented on the ground that the respondents had already been relieved.

9. However, after hearing the writ petitions finally, the learned single Judge allowed all the three writ petitions by a detailed final order dated 22-09-2017. Aggrieved by the said order, the University has come up with the above writ appeals.

10. As could be seen from the narration of facts, the appointments of the respondents, were against regular vacancies and it is not the case of the University that the appointments were made in violation of the Rules. The only case of the appellant-University is that within two years from the date of appointment, the respondents ought to have passed NET/SET and that since the respondents did not qualify with a pass in NET/SET within two years,

they were liable to be terminated, both as per the UGC Regulations and also as per the orders of appointment.

11. But as pointed out earlier, the respondents appeared for NET/SET within two years of the date of their appointment. But the results of the examination were declared subsequently.

12. The normal rule is that the declaration of results of a qualifying examination would relate back to the date of conduct of the examination. Therefore, the termination of service of the respondents, by the appellant-University was completely contrary to law. The learned Judge was, therefore, right in setting aside the orders of termination.

13. Mr. K. Ramakanth Reddy, learned standing counsel appearing for the appellant-University strenuously contended that in the meantime, third party interests have come into play and that pursuant to a fresh notification issued on 06-12-2013, three individuals have been appointed in the place of the respondents and they were not made parties to the writ petitions.

14. But, we do not think that the same would alter the position. The orders of termination of the services of the respondents were issued on 02-12-2013. Within 4 days the University rushed to issue a notification for a fresh recruitment on 06-12-2013. The petitioners in two out of three writ petitions got an interim order on 13-12-2013. Obviously, the appointments pursuant to the fresh notification were made only after January, 2014. These appointments were made patently during the pendency of a challenge to the orders of termination of the respondents.

15. The law is well settled that once an order of termination or dismissal from service of an employee is set aside by a Court of law, persons appointed to the vacancies created due to the termination, will not acquire any right to continue in employment. As a matter of fact, the University should have cautioned the employees who appeared for the recruitment pursuant to the fresh notification that their appointments would be subject to the outcome of the writ petitions. Irrespective of whether a Court makes it clear or not, any appointments made during a challenge to the notification or a challenge to the orders of termination, should be subject to the outcome of such a proceeding. Hence, the fact that the third party interests have been created by the University during the pendency of the writ petitions, would hardly matter. We find no justification to interfere with the order of the learned single Judge.

Hence, all the three writ appeals are dismissed. No costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

M. GANGA RAO, J

Date: 08-11-2017

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