

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Monday, the Nineteenth day of February Two Thousand Eighteen

PRESENT

THE HON`BLE MR JUSTICE SATRUGHANA PUJAHARI

WMP NO.31962 OF 2017

IN WP.37244/2015

DR.K.SELVARAJU [PETITIONER]
ASSISTANT PROFESSOR (BIOTECH),
NO.227/76, THIRUCHENGODU ROAD,
NAMAKKAL 637 001 NOW AT
SMALANDSGATAN, 4B, LGH 1208,
38233 KALMAR, SWEDEN

Vs

1 THE REGISTRAR [RESPONDENTS]
TAMIL NADU AGRICULTURAL UNIVERSITY,
COIMBATORE 641 003

2 THE PROFESSOR HEAD OF THE
DEPARTMENT, DEPARTMENT OF PLANT
BIOTECHNOLOGY, CPMB & B, TAMIL NADU
AGRICULTURE UNIVERSITY, COIMBATORE 641 003

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Direct the Respondent to reserve one seat of Assistant Professor in Bio Technology in the Respondent University by not filling up the one post in the Non-Priority Category in pursuance of the Advertisement Nos. R3/21497/2017 dated 27.09.2017 and 214978 (Regular Vacancies)/2017 dated 29.09.2017 issued by the Respondent University (WMP.31962/2017)

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MRS.VIJAYAKUMARI NATARAJAN, Advocate for the petitioner and of MR.ABDUL SALEEM, Advocate for the Respondent the court made the following order:-

Heard the learned counsel appearing for the petitioner on the merits of the writ miscellaneous petition.

2 It appears that the petitioner while working as Associate Professor was terminated from his service as he was allegedly not worked in the said post, but was serving somewhere else. Challenging such termination order, the petitioner had filed the main writ petition, on the ground of violation of principles of natural justice i.e *Audi alterm partem*.

3 However, since the authority is going to recruit against the said post, the petitioner came forward to file this writ miscellaneous petition with a prayer to reserve one post Associate Professor in Bio Technology vacant in the respondent University, till pending disposal of the writ petition. The counsel for the petitioner in the writ miscellaneous petition submits unless the prayer is allowed, the writ petition shall be infructuous.

4 The same is vehemently opposed by the learned counsel appearing for the respondent, on the ground that the petitioner has no case at all, so also, as this Court had not stayed the matter while issuing notice. Further more, it is submitted that if such an order is passed, the respondent will be deprived of filling up of the post which has to be filled up in the exigency of public service.

5 After hearing the submissions and also going through the materials on records and on consideration of the facts and situations, especially the contentions raised, I am of the view that the petitioner has made out no case for keeping one post reserve as he has already been terminated, pending disposal of the writ petition, inasmuch as in the exigency of the interest of the students and the institutions, the respondent wants to fill up the post. Therefore, the writ miscellaneous petition is devoid of merits. However while refusing such a prayer, this Court also cannot remain oblivious to the prayer made in the writ petition/ the case of the petitioner, since the petitioner has challenged his order of termination from the post of Assistant Professor which is going to be filled up, to be illegal and arbitrary, being violative of the principles of natural justice i.e *Audi Alterm Parterm*, the post though cannot be kept vacant for years to come or till disposal of the writ petition, but it would be proper to allow the respondent to fill up the post subject to result of the pending writ petition. Therefore, the respondent may proceed to fill up the post in against which the petitioner was appointed pending disposal of the writ petition but any appointment made against the said post, shall be subject to the result of the writ petition. However, the same should not be considered as any positive direction to the respondent by this Court to fill up the post, if the respondent is otherwise prohibited or injuncted by any other Court to fill up the post by such recruitment.

6. With the aforesaid order, this writ miscellaneous petition stands disposed of.

-sd/-
19/02/2018

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE REGISTRAR
TAMIL NADU AGRICULTURAL UNIVERSITY,
COIMBATORE 641 003

2 THE PROFESSOR HEAD OF THE
DEPARTMENT, DEPARTMENT OF PLANT
BIOTECHNOLOGY, CPMB & B, TAMIL NADU
AGRICULTURE UNIVERSITY, COIMBATORE 641 003

C.C. to M/S.S.NATARAJAN Advocate Sr.No.2082

C.C. TO MR.ABDUL SALEEM, Advocate Sr.No.2079

Order

in
WMP.31962/2017

in
WP.37244/2015

Date :19/02/2018

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