

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.No.1885 of 2018

and CMP No.15188 of 2018

M.Muthukumar .. Appellant

versus

1. The Principal Secretary to Government,
Department of Higher Education,
Fort St. George,
Chennai - 600 009.

2. The Vice Chancellor,
Thiruvalluvar University,
Serkadu,
Vellore - 632 115.

3. The Thiruvalluvar University,
Rep. by its Registrar,
Serkadu - 632 115
Vellore.

.. Respondents

Writ Appeal filed against the common order dated 25.07.2018
passed in M.P.Nos.1 & 2 of 2015 in W.P.No.20604 of 2015.

Prayer in M.P.Nos.1 and 2/15:

i) Grant an order of Interim Injunction restraining the 3rd
respondent University from further proceeding the Selection to
the 13 posts of Assistant Professor in Tamil Department pursuant
to its Advertisement No.426/28.4.15, Published in the Vernacular
Daily Dina Thanthi dated 26/4/2015 (in M.P.No.1/18) and

ii) to vacate the Interim order passed by this Hon'ble Court
in M.P.No.1/2015 in W.P.No.20604/2015 dated (13/7/2015) (in
M.P.No.2/15) pending disposal of the above W.P.No.20604/2015
respectively.

Prayer in W.P.No.20604 of 2015:

Writ of Declaration or any other appropriate Writ, order or direction, Declaring the interview conducted on 17.6.2015 to 19.6.2015 for the 13 Posts of Assistant Professor in Tamil pursuant to the Advertisement No.426 dated 26.4.2015 published by the 3rd respondent University in the Vernacular Dina Thanthi dated 26.4.2015 as ultravires and violative of the UGC Regulations on Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and colleges and Measures for the Maintenance of Standards in Higher Education 2010 and consequently direct the 3rd respondent University to conduct the interview afresh for the 13 posts of Assistant Professor in Tamil strictly in accordance with the UGC Regulations 2010 by notifying the marks of the candidates called for the interview and pass such further or other order as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render Justice.

For Appellant : Mr.S.Sathia Chandran

JUDGMENT

(Order of the Court was delivered by SUBRAMONIUM PRASAD, J)

Instant writ appeal is directed against the order dated 25.07.2018, made in M.P.Nos.1 & 2 of 2015 in W.P.No.20604 of 2015, vacating the interim order dated 13.07.2015 made in M.P.No.1 of 2015 in WP No.20604 of 2015.

2. The facts leading to the appeal are that 3rd Respondent viz., Thiruvalluvar University, Vellore, called for applications for direct recruitment of 13 posts of Assistant Professor of Tamil in its six constituent colleges. Out of 13 posts, two posts, viz., roster points at 4 and 10 are reserved for backward classes. The petitioner, M.Muthukumar, appeared for the interview. The interview was challenged in WP No.20604 of 2015, on the ground that the selection process is not in accordance with UGC Regulations, 2010.

3. An interim order was passed on 13.07.2015 in M.P.No.1 of 2015 in WP No.20604 of 2015, restraining the 3rd respondent University from filling up the posts. The order of interim injunction was modified by an order dated 22.12.2015, wherein this Hon'ble Court directed the respondents to reserve one post of Assistant Professor in Tamil Department, pursuant to its Advertisement dated 26.04.2015.

4. On 25.07.2018, while considering MP No.2 of 2015, filed to vacate the interim order dated 13.07.2015, a learned Single Judge passed the following order.

"The interim order, to keep one post vacant for an unspecified period, can never be construed as a balancing order. The post of Assistant Professor (Tamil) in the Colleges is an important post. A College cannot function without professors. If such post of Professors are kept vacant by the Court for an unspecified period, then this Court is afraid that the very administration of the College in respect of the teaching faculty will be paralysed. Even in case of granting such an interim relief, it must be for a shorter period, so that the issues raised in the writ petition can be adjudicated.

2. The present writ petition was filed in the year 2015. If the post of Assistant Professor (Tamil) is kept vacant for three years in a College, then no purpose would be served and it is neither beneficial to the writ petitioner nor to the Administration. Contrarily, such an order causes inconvenience to the students, who are studying in the College.

3. Thus, in order to have a pragmatic approach, this Court is of an opinion that such orders of keeping one post vacant, if at all granted, must be for a shorter period and certainly not for an unspecified period. Under these circumstances, the rights of the respective parties including the petitioner can be adjudicated at the time of the final hearing and in the even of succeeding in the writ petition, the writ petitioner may be granted with an appropriate relief."

5. There is no infirmity in the order passed by the learned Single Judge. A post cannot be kept vacant for a long period. Interest of students will suffer, if the post is kept vacant. Needless to say that the interest of the petitioner can never be affected by the above order, because any appointment made during the pendency of the writ petition, would always be subject to the final orders to be passed in the writ petition.

6. Petitioner can make a request to the learned Single Judge, to dispose of the writ petition at the earliest.

7. Writ appeal is dismissed with the above said observation.
No Costs. Consequently, the connected Civil Miscellaneous
Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ars/gsp

To

1. The Principal Secretary to Government,
Department of Higher Education,
Fort St. George,
Chennai - 600 009.

2. The Vice Chancellor,
Thiruvalluvar University,
Serkadu,
Vellore - 632 115.

3. The Registrar,
Thiruvalluvar University,
Serkadu - 632 115
Vellore.

+1cc to M/S.S.Sathia Chandran, Advocate Sr.62481

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srg 22/10/2018