

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2018

C O R A M

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

WP.No.11006 of 2018
and WMP.No.12911 of 2018

N.Kumaraguru

...Petitioner

Vs.

The Annamalai University,
Rep. by its Registrar,
Annamalai Nagar, Chidambaram,
Cuddalore District, Tamil Nadu

.... Respondent

PRAYER

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the respondent in proceedings Reference No.C1-10/21851/2018 dated 02.04.2018 wherein the Respondent illegally and arbitrarily reduces the Rank of the Petitioner from Special Officer Grade - I to Assistant Section Officer and quash the same.

For Petitioner : B.Elango & P.Poornima
for Mr.G.Vijay Anand Asso.

For Respondent : Mr.K.Sathish Kumar

O R D E R

Notice dated 02.04.2018 issued by the respondent is under challenge in this writ petition.

2. The writ petitioner was appointed as Special Officer in the Directorate of Distance Education Study Centre at Chengalpet. By virtue of Annamalai University Act 2013, the Government of Tamil Nadu has taken over the University with effect from 04.04.2013 and after thorough verification, it has been found that the appointment of the writ petitioner had been done without following any proper procedures for recruitment and accordingly found that the same was illegal. The matter was placed before the Authorities and pursuant to the decision in respect of the illegal appointments, the Syndicate and the Finance Committee have taken a decision to issue notice to opt for redesignation as Assistant Section Officer or any other

equivalent post and accordingly to refix the salary. It is proposed in the impugned notice that if the redesignation is granted, the salary should be proportionately reduced. It is pertinent to note that the consequences of the redesignation has been narrated in the show cause notice and finally an opportunity was given to the writ petitioner to explain his willingness for redesignation. In the event of not expressing willingness, then appropriate orders will be passed thereafter.

3. The impugned notice is an opportunity provided to the writ petitioner to submit his explanations / objections in respect of the proposed redesignation as decided by the Syndicate and the Finance Committee of the University. The provisional decision has been taken by the Syndicate and the Finance Committee for granting redesignation to the writ petitioner in view of the fact that his initial appointment was not in accordance with the recruitment rules in force and the same was illegal. Since the appointment of the writ petitioner was illegal, after taking over the University by the Government, the Government reviewed all the appointments made contrary to the rules and UGC regulations and has given an opportunity for redesignation. Thus, it is an opportunity for the writ petitioner to submit his explanations or otherwise in respect of the show cause notice issued. Contrarily, the petitioner has moved the writ petition on the ground that no opportunity has been given to him. In fact, the impugned notice itself is an opportunity for the writ petitioner to express his willingness or otherwise.

4. No writ petition can be entertained, against the notice issued seeking willingness of the writ petitioner for redesignation or otherwise. Writ petition can be entertained against the notice, if the same is issued by an incompetent authority having no jurisdiction or if an allegation of malafides are raised or if the same is in violation of the statutory rules in force. Even, in the case of raising an allegation of malafides, the authorities against whom the allegations are raised, is to be impleaded as respondent party in the personal capacity in the writ proceedings. In the absence of any one of these legal grounds, no writ petition can be entertained in a routine manner. Judicial review against show cause notice is certainly limited.

5. In the present case on hand, the Syndicate and the Finance Committee has taken a decision by verification of the files and found that the initial appointment of the writ petitioner was not in accordance with the rules and the appointment was made illegal. Therefore, the decision has been taken to issue notice and provide an opportunity seeking willingness of the writ petitioner for redesignation.

6. Thus, it is left open to the writ petitioner to submit his willingness or otherwise in respect of the notice issued to him in proceedings dated 02.04.2018. In the event of receiving any such willingness / explanations / objections from the writ petitioner, thereafter, the respondent is at liberty to take a decision on merits and in accordance with law and pass appropriate orders.

7. In this view of the matter, the writ petitioner has not made out any grounds for quashing of the notice issued by the respondent which is otherwise in accordance with law and there is no infirmity as such.

8. Thus, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

The Registrar,
The Annamalai University,
Annamalai Nagar, Chidambaram,
Cuddalore District, Tamil Nadu

+1cc to Mr.G.Vijay Anand Associates, Advocate in sr.no.32064
+1cc to Mr.K.Sathish Kumar, Advocate in sr.no.31694

nr 17/05/2018

WP.No.11006 of 2018
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