

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 07.08.2018
CORAM

THE HON'BLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.13429 of 2017

Dr.D.Asokan

.. Petitioner

vs

1. The Secretary,
Higher Education Department,
Secretariat, Chennai -600 009.

2. The Director of College Education,
Office of the Director of Collegiate Education,
Chennai 600 006.

3.The Annamalai University
rep. by its Registrar,
Annamalai Nagar-608 002
Cuddalore District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to proceeding of the second respondent in Na.Ka.No.28557/D5/2016 dated 12.05.2017 so far as petitioner alone is concern in respect of including petitioner in list of surplus teaching staff in the Department of Tamil and University Order No.662/2017(C) dated 15.05.2017 issued by the second respondent and quash the same, consequently issue direction to respondents to identify the surplus Assistant Professors based on the sanctioned strength of the University in the Department of Tamil considering workload prevailing in department of Tamil studies and Research by obtaining the report from the Academic Council, faculty and Board of studies.

For Petitioner : Mr.T.Dharani
For Respondents : Mr.K.Karthikeyan,
Government Advocate
for R1 and R2
Mr.P.Lodson Swaminath
for M/s.Isaac Chambers for R3

O R D E R

The order dated 15.05.2017 treating the writ petitioner as a surplus Assistant Professor and posting him in Government Arts College is under challenge in this writ petition.

2.Learned counsel appearing on behalf of the petitioner made a submission that the Rule of last come first go has not been followed while treating the writ petitioner as surplus Assistant Professor in Annamalai University. The juniors to the writ petitioner are retained in Annamalai University and contrary to the rules, the writ petitioner was posted at Government Arts College. Thus, the petitioner is constrained to move the present writ petition.

3.Learned counsel appearing on behalf of the Annamalai University made a submission that nearly 12,500 employees are now working in Annamalai University and after the University was taken over by the Government, there were certain re-arrangements in respect of deputing of the employees and the employees working in various cadres in other Government Colleges were ascertained and the junior employees and the professors were deputed to some other colleges in order to regulate the entire administration. Professors and employees were appointed in Annamalai University over and above the required strength and the Government treated all these employees as surplus and posted in some other Government institutions in the State. While undertaking the process of administration, the writ petitioner was treated as surplus and now posted in Government Arts College for women, Kumbakonam.

4.Firstly, it is not a far off place. Secondly, the writ petitioner worked as an Assistant Professor and he is now posted in Government Arts College. This apart, the persons who are all juniors to the writ petitioner retained in Annamalai University have not been impleaded as parties to establish that the writ petitioner is senior to those persons. In the absence of impleading all junior Assistant Professors who are retained in Annamalai University contrary to the principles as respondents in the writ petition, this Court will not be in a position to accept the submission made on behalf of the writ petitioner. This apart, the seniority of the writ petitioner will not be affected on account of his posting at Government Arts College for women, Kumbakonam.

5.Learned counsel appearing on behalf of the University stated that the posting of the writ petitioner in Government Arts College is for a period of three years and already the writ petitioner has served one year at Kumbakonam. This being the factum of the case, this Court has to draw an inference that on account of administrative reasons and in order to settle the administration after taking over by the Government such order is passed and the same cannot be construed as an illegality in the absence of establishing that the same was passed contrary to the rules and in violation of the legal principles. In this view of the matter, the case of the writ petitioner shall be considered

for any other posting after completion of three years of period.

6. In respect of the contention of the writ petitioner that two juniors were retained in Annamalai University, it is contended that these two Assistant Professors were appointed contrary to the UGC Regulation and they are not qualified to hold the post of Professors. Show cause notices were issued to them and disciplinary proceedings were initiated. Even if the disciplinary proceedings are not initiated, it is the duty mandatory on the part of the authorities to initiate the disciplinary proceedings if the professors and Assistant Professors are appointed in violation of the UGC Regulations. Thus, the writ petitioner cannot compare the other two persons, who are retained in Annamalai University against whom disciplinary proceedings are initiated as they are not qualified to hold the post of Assistant Professors.

7. In this view of the matter, the relief as sought for in this writ petition cannot be granted. Accordingly, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-V)

// True Copy//

Sub Assistant Registrar

To

1. The Secretary,
Higher Education Department,
Secretariat, Chennai -600 009.

2. The Director of College Education,
Office of the Director of Collegiate Education,
Chennai 600 006.

3. The Registrar,
Annamalai University
Annamalai Nagar-608 002
Cuddalore District.

+1cc to M/s. Issac Chambers, Advocate SR.No.54937
+1cc to Government Pleader SR.No.55023

W.P.No.13429 of 2017

SMI/31.08.2018