

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.555 of 2018 and
CMP No.5415 of 2018

The Registrar
Anna University
Chennai - 600 025.

.... Appellant

-vs-

N.Sakthieswaran

.... Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent against the order passed in W.P. No.30773 of 2017 dated 04.12.2017.

WP.NO.30773/2017:

Praying to issue a Writ of Mandamus directing the 1st respondent to promote the Petitioner from Assistant Professor Stage-1 to Assistant Professor Stage-2 with effect from the date of his obtaining Ph.D. Degree i.e. from March 2015.

For Appellant : Ms.R.Narmadha Sampath
Addl.Advocate General
for Mr.L.P.Shanmugasundaram

For Respondent : Ms.D.Geetha
for Mr.R.Diwakaran

J U D G M E N T

[Judgment of the Court was delivered by
K.K. SASIDHARAN,J.]

This intra court appeal is directed against the order dated 4 December 2017 in W.P.No.30773 of 2017, whereby and where under, the learned single Judge issued a Mandamus to consider the case of the respondent for promotion from Assistant Professor Stage-I to Assistant Professor Stage-II under Career Advancement Scheme, 2012.

2. The respondent was initially appointed as Assistant Professor in Anna University of Technology, Tirunelveli. The appointment was in the Department of Civil Engineering. Subsequently, the Government of Tamil Nadu took a decision to wind up Anna University of Technology, Tirunelveli, along with various other Anna Universities of Technology and to bring all the Engineering Colleges in the States under the Anna University, Chennai. The Government also appointed a Monitoring Committee to look into the appointments made by various Constituent Colleges and to decide the excess appointments. The Committee appears to have recommended that the properly appointed persons should continue in their present employment.

3. The respondent continued to work even after the merger. The respondent completed his Ph.D in March 2015. The respondent made a claim for promotion under the Career Advancement Scheme from Assistant Professor Stage-I to Assistant Professor Stage II. The application was not considered. The respondent therefore filed a writ petition in W.P.No.30773 of 2017. The learned single Judge allowed the writ petition even before filing counter affidavit by the appellant. The writ petition filed on 22 November 2017 was allowed by order dated 4 December 2017. Feeling aggrieved, the Anna University has come up with this intra court appeal.

4. We have heard the learned Additional Advocate General on behalf of the appellant and the learned counsel for the respondent.

5. The core question is as to whether the learned single Judge was correct in issuing a direction to consider the case of the respondent for promotion under the Career Advancement Scheme without giving an opportunity to the University to consider the matter in accordance with the relevant Regulations.

6. The respondent made a claim for promotion on the strength of All India Council for Technical Education (Career Advancement Schemes for teachers and other academic staff in technical institutions) (Degree) Regulations, 2012. It was the contention of the respondent that he possess the Master's degree at the time of his appointment and he completed five years of service even in the year 2015. He also completed his Ph.D. in March 2015. The possession of Master's degree, Ph.D and the experience earned after appointment were taken as the basis to make a claim for promotion under the Career Advancement Scheme.

7. The respondent appears to have submitted application for promotion on 29 June 2017. There was no follow up action taken by the University. The respondent immediately filed the writ petition. There is no question of deciding the claim made by

the respondent in the writ petition filed for issuance of a Writ of Mandamus without giving an opportunity to the University to consider the matter on merits.

8. The learned single Judge considered the merits of the matter and made an observation that the respondent is eligible for promotion under the Career Advancement Scheme. The question of promotion is essentially a Management function. It is for the employer to consider all the relevant aspects and decide as to whether the employee is entitled to promotion. It is not for the Court to take over such function. We are of the view that the learned single Judge was not correct in giving a positive direction for promotion. We are therefore constrained to set aside the order passed by the learned single Judge.

9. The order dated 4 December 2017 is set aside. The writ petition in W.P.No.30773 of 2017 is disposed of with a direction to the appellant to consider the case of the respondent for promotion under the Career Advancement Scheme or any other relevant Scheme. In short, the issue of promotion shall be considered by the appellant on merits and in accordance with law. Such exercise shall be completed within a period of two months from the date of receipt of a copy of this judgment.

10. The writ appeal is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

svki

+1cc to Mr.L.P.Shanmugasundaram, advocate sr.no.44159

+1cc to Mr.R.Diwakaran, Advocate sr.no.43017

W.A.No.555 of 2018

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