

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.635 of 2018
and C.M.P.No.6213 of 2018

National Institute of Technology,
Tiruchirappalli
rep.by its DirectorAppellant/4th respondent /
4th respondent

-vs-

1.V.Kannan ... 1 st respondent / petitioner
/ petitioner

2.The Government of India,
Ministry of Human Resources and Development
(MHRD), rep.by its Secretary
Shastri Bhawan,
New Delhi-110 001.

3.The Director,
National Institute of Technologies,
Department of Higher Education,
428-C, Shastri Bhawan,
New Delhi-110 001.

4.National Institute of Technology
rep.by its Dean,
Rourkela, Orissa-769 008. ... 2 to 4 Respondents
/ 1 to 3 respondents

Appeal filed under Clause 15 of Letters Patent,
against the order passed by this Court in W.M.P.No.4141 of
2018 in W.P.No.18007 of 2016 dated 08.03.2018.

For Appellant ::Mr.G.Rajagopalan,
Addl.Solicitor General of India for
Asstd .by Mr.Sri Balaji

For Respondents:: Mr.V.B.R.Menon for R1
Mr.S.Sathish Rajan, CGSC for R2
No appearance for R3 and R4

Prayer in WMP.4141/18:

Petition filed under Article 226 of the constitution for India Praying that the directing the respondents to dispose of the representation made by the petitioner dated 29.4.2016, received on 2.5.2016 within the time stipulated by this Honourable court.

Prayer in WP.18007/18:

Petition filed under Article 226 of the constitution for India Praying that the direct the proposed party/Party respondent no.4 reserve one post for the petitioner in the post of Assistant Professor with Academic Grade Pay (AGP) at Rs.8000/- in the on going Selection process at NIT,Tiruchirapalli pursuantb with Advertisement no/. NIIT/Rif 2017/03 dated 11.10.2017 of the proposed Party / Proposed Respondent no.4

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

The first respondent is a Ph.D. Degree holder with Post Doctoral experience in Canada and is presently working as temporary faculty in Indian Institute of Information Technology, Srirangam. After returning from abroad, he applied for faculty position in the third respondent NIT which comes under the Ministry of Human Resources and Development. He also applied for contractual post with the appellant-institute in Tiruchirappalli in the year 2013. He was selected for the temporary post of faculty in the Department of Chemistry with a consolidated payment of Rs.42,000/- per month. According to the first respondent, as per the directions issued by the second respondent-Ministry, steps should have been taken by the NIT to regularise his employment, but it has not been done, instead the contractual period has been simply extended. According to the first respondent, though there are many vacancies available in the faculty position of the third respondent institute throughout India, they do not follow any rules or procedures or directions issued by the Government of India. During the months of May and June, the selection process for faculty positions will be started by the third respondent institute in various states. Under the apprehension that the third respondent Institute will once again permit all its institutes to recruit without following any norms, the first respondent made a detailed representation dated 29.04.2016 to the second respondent regarding anomalies in the recruitment procedure. Thereafter, he filed a writ petition before this Court in W.P.No.18007 of 2016 for a Mandamus directing the authorities to dispose of his representation, within a specified time frame.

2. When this writ petition was taken up, it was put forth on behalf of the appellant herein before the writ Court that the first respondent has been found ineligible on four counts, viz. (a) Inconsistent academic record (b) Number of publications fixed by the Department has not been complied with (c) No degree from the Centrally Funded Institute and (d) Age is more than 38 years as on the cut-off date.

3. After considering the facts and circumstances of the case, the learned single Judge passed the impugned interim order on 08.03.2018 directing the appellant and the respondents 2 to 4 herein, to permit the first respondent herein in the selection process commencing from 09.03.2018.

4. Challenging the said interim order, the present appeal is filed by the appellant herein.

5. The learned Additional Solicitor General of India, appearing for the appellant has submitted that the learned single Judge has failed to consider Clause A13 of the Recruitment Notification dated 11.10.2017 of the appellant-Institute when it is explicitly made clear that the appellant-Institute reserves the right to set higher criteria standards than the essential qualifications for shortlisting the candidates for Department Presentation / Interview. He further contended that the learned single Judge ought not to have intervened in the selection process of the appellant-Institute when there is no pleading or prayer in the affidavit challenging the recruitment process of the appellant-Institute and when there is no cause of action made out against the appellant-Institute.

6. A counter affidavit has been filed on behalf of the first respondent in which it is stated that in view of the interim order passed by this Court on 08.03.2018, the first respondent participated in the selection process for the post of Assistant Professor with the academic Grade Pay of Rs.8000/- before the Selection Committee of the appellant-Institute on 09.03.2018 and 11.03.2018 and he fared extremely well in the interview and fully answered the questions posed by the Interview Committee. It is also stated that the first respondent has good feedback from both the B.Tech and M.Sc. Students regarding his teaching in the appellant-Institute and since he has publications in very high impact factor Nature journals, US patent and applied research for the benefit of the society and that he has already worked in the appellant-Institute for over two years as temporary faculty, he is entitled to be recruited as Assistant Professor in the appellant-Institute. Reiterating the averments made in the counter affidavit,

the learned counsel for the first respondent prayed for dismissal of the writ appeal.

7. Heard the learned counsel on either side and perused the materials available on record.

8. First of all, this writ appeal is filed against the interim order passed by the learned single Judge. The learned single Judge has considered all the points raised on behalf of the appellant-Institute for rejection of the candidature of the first respondent, and passed the interim order permitting the first respondent to participate in the selection process commencing from 09.03.2018. The learned single Judge has not issued a direction to the appellant to select the first respondent. Only a direction was issued permitting the first respondent to participate in the selection process. It also appears that subsequently the first respondent has participated in the interview. Hence, if he is found eligible, it is for the appellant to consider the same and do the needful in accordance with law.

9. The writ appeal is disposed of with the above observation. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Director,
National Institute of Technology,
Tiruchirappalli.

2. The Secretary to Government,
Government of India,
Ministry of Human Resources and Development
(MHRD),
Shastri Bhawan,
New Delhi-110 001.

3. The Director,
National Institute of Technologies,
Department of Higher Education,
428-C, Shastri Bhawan,
New Delhi-110 001.

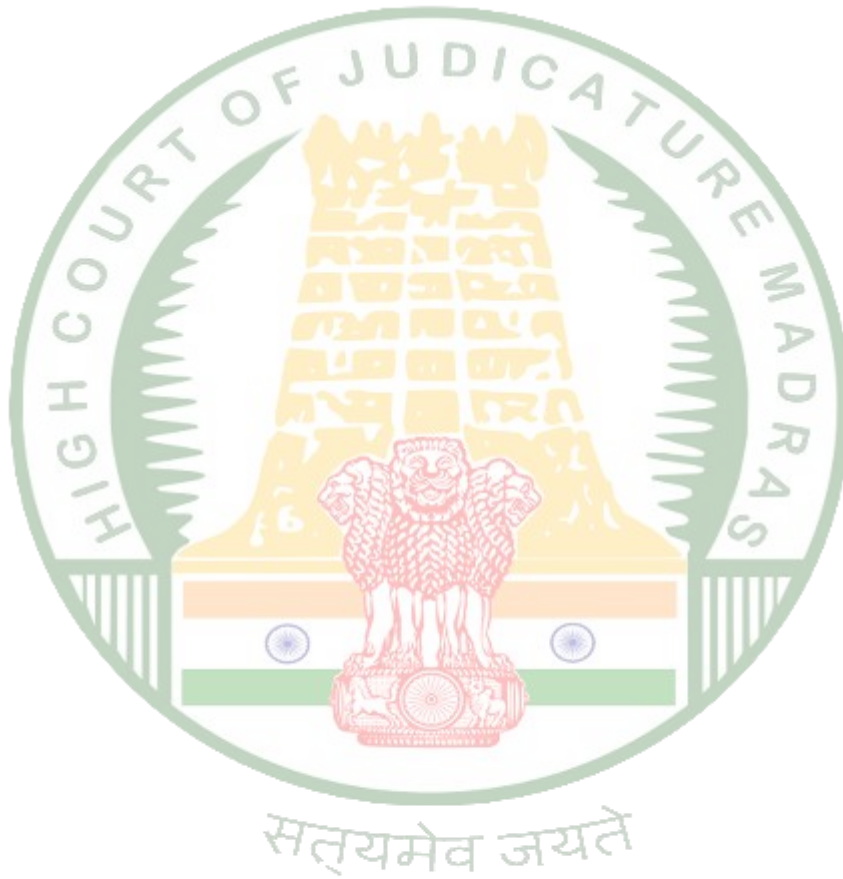
4.The Dean,
National Institute of Technology
Rourkela, Orissa-769 008.

+lcc to Mr.V.B.R.Menon , Advocate SR.No. 57337

+lcc to Mr.S.Sathish Rajan, , Advocate SR.No.57074

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ASK(24/09/2018)



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