

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2018

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.No.24429 of 2018
and W.M.P.Nos.28472 to 28474 of 2018

C.Palaniappan

... Petitioner

Versus

- 1.The Registrar,
Directorate of Technical Education,
Guindy,
Chennai-600 032.
 - 2.Anna University,
Rep.by its Registrar,
Guindy,
Chennai-600 032.
 - 3.The Controller of Examinations,
Anna University,
Guindy,
Chennai-600 032.
 - 4.Kongu Engineering College,
Rep.by its Principal,
Perundurai,
Erode-638 052
Erode District, Tamil Nadu.
- ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of Writ of Mandamus, quashing the impugned communication dated 20.08.2018 issued by the 4th respondent and consequently direct the respondents to forthwith notify and permit the petitioner to appear for re-examination for the subject "Power Electronics" (Code:11EE603) of the sixth semester, for the re-examination and declare the result of the petitioner in the subject so as to enable the petitioner to get the degree in B.E.(E.E.E) from the Anna University.

For Petitioner	: Mr.Vishnu Mohan
For R1	: Mr. A.Rajaperumal, AGP
For R2 & R3	: Mr. M.Vijaykumar
For R4	: Mr. K.Kumaran Babu

O R D E R

This writ petition has been filed seeking for issuance of a writ of mandamus, quashing the impugned communication dated 20.08.2018 issued by the 4th respondent and consequently direct the respondents to forthwith notify and permit the petitioner to appear for re-examination for the subject "Power Electronics" (Code:11EE603) of the sixth semester, for the re-examination and declare the result of the petitioner in the subject so as to enable the petitioner to get the degree in B.E.(E.E.E) from the Anna University.

2 The brief facts which are necessary for disposal of this writ petition are as follows:

The petitioner has joined in the fourth respondent college to undergo four year B.E.(E.E.E) course for the academic year 2011-12. Even after the completion of the course in the year 2014-15, the petitioner had some arrears of papers. The petitioner has written the arrear papers on few occasions and clear all subjects except "Power Electronics"(Code:11EE603). The paper in which the petitioner failed is a sixth semester paper. The petitioner successfully appeared for the examination. After going through the answer key, the petitioner also applied for re-evaluation of the answer script for the said subject on 26.02.2018 by paying the charges to the fourth respondent. However, the fourth respondent announced that there is no change in Revaluation. Thereafter, the petitioner approached this Court by way of a writ petition in W.P.No.6548 of 2018 seeking direction against the respondents 1 and 2 to re-evaluate the answer papers. It is admitted that the petitioner was given 27 marks by the examiner of fourth respondent originally and upon re-evaluation by the third respondent the petitioner's marks was reduced to 7.

3 Meanwhile, the petitioner also applied for re-examination, which is his last attempt, he could make as per the Regulations of fourth respondent. It is stated that the petitioner applied for re-examination for his remaining attempt by letter dated 10.05.2018. Though, this is his last attempt as per the Regulations of fourth respondent. The fourth respondent rejected the request of the petitioner on the following grounds:-

(a) The application is not submitted in prescribed format.

(b) The last date to register for arrear examination is 17.04.2018 and the application submitted on 10.05.2018 is beyond the period of limitation.

(c) In respect of arrear subject, a case is pending in the High Court.

4 It was thereafter, the writ petition filed by the petitioner in W.P.No.6548 of 2018 was dismissed after holding that the petitioner obtained only 7 marks out of 100 after re-valuation done by the respondents 1 and 2 in the said petition. Even at that time of dismissal of the writ petition, the learned counsel appearing for the petitioner submitted before this Court that the petitioner had made an attempt to appear the examination in May 2018 and that since his request is turned down on the ground of pendency of W.P.No.6548 of 2018, he may be permitted to take the examination in November 2018. However, this Court did not express any opinion on the eligibility of the petitioner to appear in May 2018 or November 2018.

5 The petitioner had earlier, approached the fourth respondent by his application dated 06.04.2018 for re-examination. However, the fourth respondent rejected the petitioner's application by the impugned order dated 20.08.2018 on the main ground that he was not eligible for re-examination as per the regulations of the fourth respondent college. As per the regulations of fourth respondent college, a candidate expected to complete B.E., B.Tech., programme in eight consecutive semesters in any case not more than 14 semesters in the case of candidate admitted in the first semester and within 12 semesters in the case of lateral entry candidates. Since the petitioner had already exhausted all the attempts, the respondent did not permit the petitioner to write his arrear examination. Challenging the order dated 20.08.2018 the above writ petition is filed.

6 The learned counsel for the petitioner submitted that the request of the petitioner for his last attempt was rejected illegally by the fourth respondent by referring to pendency of the writ petition filed by the petitioner in W.P.No.6548 of 2018. Since, the petitioner lost his opportunity illegally, the rejection of petitioner's application for this year by referring to the regulations made by the college once again is unfair.

7 The learned counsel appearing for the petitioner further submitted that the fourth respondent did not invite application for re-examination for arrears and that therefore, the petitioner could not file the application within the time. In view of the factual background that the petitioner ought to have been permitted to write his examination during May 2018, some indulgence to be given to the petitioner to appear for the examination in the ensuing examination that is announced by the university. Since the fourth respondent is an autonomous body,

is entitled to frame their own regulations, it is submitted that the fourth respondent should be directed to show some indulgence to the petitioner in view of the situations and position that the petitioner has been a victim of circumstances. It is submitted that only on account of pendency of writ petition filed by the petitioner earlier, the fourth respondent rejected the application for the petitioner to appear in May 2018 examination, which happened to be his final attempts as per regulation of fourth respondent.

8 The learned counsel appearing for the respondent, however made serious objection to the submission of the learned counsel for the petitioner and submitted that the writ petitioner has no merits and the petitioner does not deserve any sympathy and indulgence of this Court. The learned counsel for the fourth respondent pointed out that the application filed by the petitioner was rejected earlier not only on the ground of pendency of the writ petition but on the ground that the application was not submitted in the prescribed format and it is not filed within the time stipulated by the university. The learned counsel appearing for the fourth respondent further referred to the fact that the petitioner earlier filed a writ petition praying for re-evaluation on the answer paper of the petitioner in "Power Electronics". Though, the petitioner was awarded 27 marks by the fourth respondent on proper valuation, the re-evaluation was done by the third respondent/the controller of examination of Anna University and that the petitioner's mark was reduced from 27 to 7. Hence, it was submitted that the petitioner's case that he was vindicated has no merits.

9 Though, the reduction of marks after re-evaluation is relied upon by the fourth respondent college to show the inefficiency of the petitioner, the difference in marks between the valuation done by the fourth respondent college and Anna University has only exposed the fourth respondent's standard in the valuation process adopted by the fourth respondent.

10 Be that as it may, the petitioner was denied his last chance for certain reasons. One of the reason is unsustainable as pendency of the writ petition pertaining to the re-evaluation cannot be a ground to deny permission to the petitioner to write re-examination. Though, it is stated that the petitioner did not apply for re-examination on or before 17.04.2018, the last date prescribed by the university, the learned counsel for the fourth respondent admits that there is no regulation by the fourth respondent to condone the delay even for a valid reason. When the petitioner applied for re-examination, the fourth respondent ought to have considered the fact that it is the petitioner's last chance and the serious

prejudice that is likely to be caused to the petitioner affecting the petitioner's carrier.

11 In such of situations, the fourth respondent ought to have shown some indulgence to the petitioner particularly if there is no prohibition in the rules framed by the university or rules framed by the college. It is not as if such situations would never come to the fourth respondent in future and the fourth respondent would take a stand that they cannot relax the last date prescribed for receiving application.

12 Considering the case purely on sympathal manner, this Court is unable to countenance the arguments of the learned counsel for the fourth respondent to deny the petitioner, his last chance. Having regard to the discussions, the petitioner can be permitted to write re-examination and the impugned order dated 20.08.2018 is quashed. The fourth respondent is directed to permit the petitioner to appear for the re-examination in the subject "Power Electronics" for the ensuing examination. In case the petitioner comes successfully, the respondent may declare the petitioner's result in the subject.

13 Accordingly, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are also closed

Sd/-

Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

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To

1.The Registrar,
Directorate of Technical Education,
Guindy,
Chennai-600 032.

2.The Registrar,
Anna University,
Guindy,
Chennai-600 032.

3.The Controller of Examinations,
Anna University,

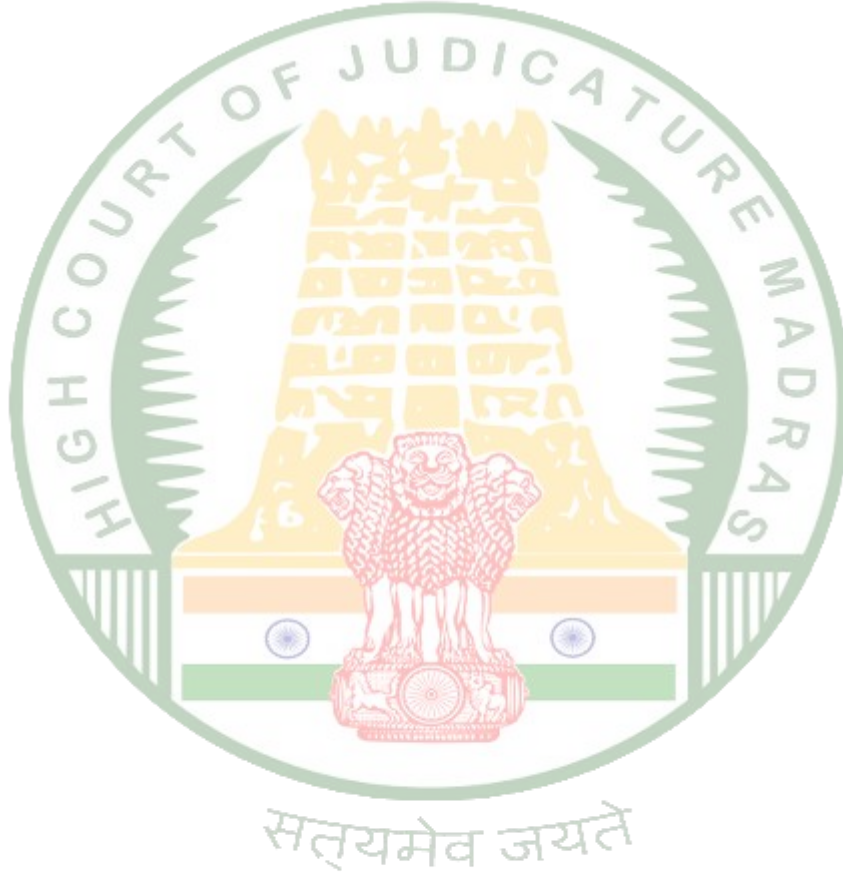
Guindy,
Chennai-600 032.

+1cc to Mr.R.Parthasarathy, Advocate SR.No.72909

+1cc to Mr.M.Vijayakumar, Advocate SR.No.72895

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and W.M.P.Nos.28472 to 28474 of 2018

GMV (09/11/2018)



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