



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 07.02.2018

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.318 of 2018
and
WMP(MD)No.331 of 2018

S.V.Bharanedhar

.... Petitioner

Vs.

- 1.The Commissioner,
Department of Technical Education,
State of Tamil Nadu, Chennai.
- 2.The Vice Chancellor,
Central University of Tamil Nadu,
Neelakudi Campus,
Kangalancherry,
Thiruvarur District.
- 3.The Registrar,
Central University of Tamil Nadu,
Neelakudi Campus,
Kangalancherry, Thiruvarur District.
- 4.The Assistant Registrar, Establishment,
Central University of Tamil Nadu,
Neelakudi Campus, Kangalancherry,
Thiruvarur District.
- 5.The Principal,
Alagappa Chettiar College of
Engineering and Technology,
Karaikudi-630 004,
Sivagangai District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the fourth respondent in his proceedings in No.PF-6-142/2017-Estt-NT-3973 dated 06.11.2017 and quash the same as illegal, violation of law and further direct the respondents 2 to 4 herein to grant an extension of time for a period 4-6 months to join as an Assistant Professor (UR) in the Department of Mathematics in the Central University of Tamil Nadu Neelakudi Campus, Kangalancherry, Thiruvarur District.



For Petitioner : Mr.M.Jothi Basu
For Respondent No.1 : Mr.J.Gunaseelan Muthaiah,
Addl., Government Pleader
For Respondents Nos.2 to 4 : M.V.Rajasekar
For Respondent No.5 : No appearance.

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ORDER

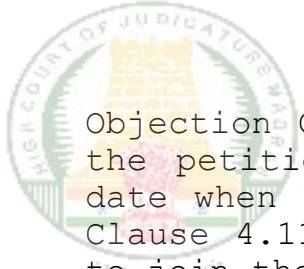
The petitioner applied in response to the employment notice dated 12.12.2016 issued by the third respondent inviting applications for various posts. The writ petitioner was an applicant for the post of Assistant Professor in Mathematics Department. The petitioner submitted his application on 06.01.2017. The petitioner was selected on 06.10.2017. The third respondent issued appointment order and gave a months time to the petitioner to report for duty. The petitioner sought more time to join duty. This request was denied vide order dated 06.11.2017 by the fourth respondent. Hence, this writ petition has been filed questioning the same. The petitioner has also sought an extension of time for a period of 4 to 6 months.

2.The learned counsel appearing for the Central University opposed the writ petition strongly. He drew the attention of this Court to the Office Memorandum dated 11.01.2016 issued by the Department of Personnel and Training which states that the entire selection process must be completed within six months. The U.G.C regulations also contemplate that all the sanctioned/approved posts in the university system shall be filled up on an urgent basis. He also placed reliance on Clause 4.11 of the Employment Notice which reads as under :

Candidates already in service must submit their applications through proper channel. In case the applicant is in service, and if any delay is expected in getting endorsement of the employer, the applicant may submit Advance Copy of the application, with all enclosures, to the address given in the employment notification directly (with or without employer's endorsement on the Advance Copy). If the original application through proper channel is not received by the University by the last date mentioned in the employment notification, the candidate/applicant will have to submit a 'NO OBJECTION CERTIFICATE' obtained from his/her employer to the University at the time of interview, if he/she is called for interview.

3.He also pointed out that No Objection Certificate was not obtained from the current employer of the writ petitioner and that therefore he called upon this Court to dismiss the writ petition.

4.This Court is of the view that Clause 4.11 of the Employment Notice cannot be put against the writ petitioner. The writ petitioner submitted his online application on 06.01.2017. If the writ petitioner was then in service, then he would have to submit No



Objection Certificate from the fifth respondent. In this case, as the petitioner was not in service of the fifth respondent on the date when he submitted his application, the requirement set out in Clause 4.11 cannot apply in this case. The petitioner is anxious to join the service of the Central University.

5.To a pointed question from this Court, the learned standing counsel appearing for the Central University admitted that as on date, the post of Assistant Professor in Mathematics Department for which the petitioner was selected and appointed is still vacant. He however contended that the University is proposing to hold a fresh recruitment process. But, then, it would again consume time.

6.This Court is not inclined to grant long time to the petitioner to join the service of the University. The Central University had given time till 06.11.2017 to join duty. When this Court asked the petitioner counsel whether the petitioner would be willing to report for duty on 12.02.2018, the counsel answered in the affirmative. The learned standing counsel for the University was also informed that the petitioner would be reporting for duty on 12.02.2018. This Court is conscious of the fact that there are certain formalities to be observed. The current employer will have to formally relieve the petitioner. The current employer though served has not chosen to enter appearance.

7.In these circumstances, considering the fact that the post for which the petitioner was selected is still vacant and that the recruitment process is yet to begin, a direction can be given to the Central University of Tamil Nadu, Thiruvarur District to permit the petitioner to join duty on 12.02.2018 without insisting on other formalities for the present. The order impugned in the writ petition is quashed. The petitioner is permitted to join duty in the Central University of Tamil Nadu, Kangalancherry, Thiruvarur District on 12.02.2018.

8.The fifth respondent is directed to issue relieving order in favour of the petitioner and also return the original certificates of the petitioner which the fifth respondent may be possessing without any delay. It is made clear that other formalities can be complied within an extended period of time to be granted by the third respondent.

9.With these directions, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

/True Copy/



To

1 The Commissioner,
Department of Technical Education,
State of Tamil Nadu, Chennai.

2 The Registrar,
Central University of Tamil Nadu,
Neelakudi Campus,
Kangalancherry, Thiruvavarur District.

3 The Principal,
Alagappa Chettiar College of
Engineering and Technology,
Karaikudi-630 004,
Sivagangai District.

+1cc to M/S.M.Jothi Basu, Advocate SR.No. 47132

+3cc to M/S.V.Rajasekar, Advocate SR.No. 46964

+1cc to Special Government Pleader, SR.No. 47199

W.P (MD) No.318 of 2018
and
WMP (MD) No.331 of 2018
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SKM

JM/SV MMS/SAR 1/08.02.2018/4P/9C