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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.10.2018**

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A.(MD).No.580 of 2018

and

C.M.P.(MD).Nos.3274 and 3275 of 2018

1. The Vice Chancellor,
   Central University of Tamil Nadu,
   Neelakudi Campus,
   Kangalancherry,
   Thiruvarur District.

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

3. The Assistant Registrar,
   Central University of Tamil Nadu,
   Neelakudi Campus,
   Kangalancherry,
   Thiruvarur District. ... Appellants/Respondents 2 to 4

Vs.

1. S.V.Bharanedhar ... Respondent/Writ Petitioner

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

3. The Principal,
   Alagappa Chettiyar College of Engineering
   and Technology,
   Karaikudi 630 004
   Sivagangai District. ... Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letter Patent, against the order passed by this Court in W.P.(MD).No.318 of 2018 and W.M.P.(MD).No.331 of 2018, dated 07.02.2018.

Prayer in WMP(MD)No. 331 of 2018 :

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To grant interim direction directing the respondents 2 to 4 reserve one post of Assistant Professor (UR) in the Department

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of Mathematics in the Central University of Tamil Nadu Neelakudi Campus, Kangalancherry, Thiruvarur District pending disposal of the writ petition.

Prayer in WP(MD)No. 318 of 2018 :

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 4th 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 Appellant : Mr.K.S.Govinde Prasad for Mr.V.Rajasekar
For R1 : Mr.M.Jothi Basu

JUDGMENT

[Judgment of the Court was made by **M.M.SUNDRESH,J.**]

This appeal is preferred against the order passed in W.P.(MD) No.318 of 2018. After careful considering the scope of Clause 4.11 of the Employment Notice, the learned Single Judge was pleased to allow the writ petition, after taking note of the submission made by the parties including the learned counsel appearing for the third respondent therein which is inclusive of availability of the post and the statement made that the third respondent would report for duty on a specific date.

2.The first respondent/writ petitioner herein has submitted that he made his application on 06.01.2017 for the post of Assistant Professor in Mathematics Department, in pursuant to the notification issued by the appellants. The appointment order was issued by the third appellant in favour of the first respondent/writ petitioner. The first respondent/writ petitioner sought extension of time to join duty, which was rejected by the fourth respondent. Aggrieved over the same, the writ petition was filed.

3.The first respondent, at the time of making application was not a gainfully employed. Clause 4.11 of the Employment Notice speaks about the information to be furnished when an application given gainful employer. The said Clause further says that if the original application is not received through proper channel by the

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appellant within the last date mentioned in the employment notification, the candidate will have to submit a No Objection Certificate obtained from the employer of the University at the time of interview. Therefore, Clause 11.4 has to be seen from the context of application alone and in other words, this Clause is applicable at the time of making application only. The second part of the Clause would come, when a situation arose, by which, an application has not been received through proper channel.

4.In the case on hand as stated above, the first respondent/writ petitioner was not gainfully employed. However, subsequently, before his appointment order was given by the third appellant, he was employed as Assistant Professor before the fourth respondent. Therefore, the recital of Clause 4.11 would not apply to the present case, as rightly held by the learned single Judge. The learned single Judge further recorded the statement made by the learned Standing Counsel appearing for the University that the said post is still vacant. There is no questions of asking any posts, since all other posts have already been filled up. It is seen that no further other request is pending.

5.In such view of the matter, we are not inclined to interfere with the order of the learned Single Judge, particularly, when there was an agreement as extended through the counsel for the appellants. After all, the first respondent has been selected on merits and an appointment order was given and what has been ordered is granting extension of time to joint. We make it very clear that a decision has to be taken on the factual context involved in the case before us.

6.In the result, the writ appeal stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-II)

+4cc to Mr.V.Rajasekar, Advocate Sr.No.92153
+1cc to M/s.G.M.Law Office, Sr.No.92466

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