

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.04.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.4017 of 2018
W.M.P.Nos.4960 & 4961 of 2018

Dr.T.Sudha

.. Petitioner

vs

1.The Principal Secretary
Higher Education Department
Secretariat, Chennai-600 009.

2. The Director of College Education,
Office of the Director of Collegiate Education,
Chennai 600 006.

3. The Annamalai University
Rep. By its Registrar
Annamalai Nagar-608 002.
Cuddalore District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating proceeding of the 3rd respondent in University Order No.1318 dated 20.02.2018 and quash the same, consequently directing the respondents to allow the petitioner to serves as Assistant Professors based on seniority and total approved sanctioned strength in the department of Economics in the 3rd respondent University.

For Petitioner : Mr.G.Sankaran, for M/s.T.Dharani

For Respondents : Mr.V.Kathirvelu
Special Government Pleader for RR1 and 2.

Mr.K.Sathishkumar
for R3.

O R D E R

The legal principles are well settled that so long as the service condition of employee is not affected, the High Court

would not entertain the writ petition in ordinary circumstances. In the absence of establishing that the service condition contemplated in the statutes and rules are violated, there is no infringement of the legal right of the employee/public servant. The High Court would not interfere with the administrative affairs of the State or its organizations. Keeping the above basic principles in view, the present writ petition is to be considered.

2. The order of deputation, deputing the writ petitioner to another college by treating her as surplus Assistant Professor is under challenge in the present writ petition.

3. The writ petitioner was appointed as a lecturer in Annamalai University in the Department of Economics on 03.07.2000. Subsequently, the writ petitioner was re designated as Assistant Professor and working as such. The petitioner is eligible for promotion to the post of Professor and she is yet to be promoted to the post. Under these circumstances, by the Annamalai University Act, 2013, the University was taken over by the Government of Tamil Nadu and the Government of Tamil Nadu, on taking over the University, is in the process of settling the issues and to weed out any illegality or irregularity in the University. After taking over the Annamalai University, the Government Authorities found that there were large scale irregularity or illegality and many illegal appointments were made, contrary to the UGC regulations as well as against the statute. The executive officers are in the process of settling these issues. While doing so, the authorities have deputed the surplus teaching faculty and non-teaching staff to various other colleges and University. The faculty members as well as non-teaching staff were against such deputation by treating them as Surplus candidates and they approached the Court of law to retain them in Annamalai University itself.

4. Various reasons are cited and mostly the contentions of all these employees/professors are that number of sanctioned posts are available and their juniors were retained in the University and further the authorities have not followed "last come, first go" policy.

5. The learned counsel for the writ petitioner states that in this case also, the juniors of the writ petitioner were retained in the University and therefore, the writ petitioner is to be allowed to continue in Annamalai University.

6. This Court is of the considered opinion that these are all administrative affairs to be looked into by the Competent Authorities. If the authorities are of the view that the employees are surplus they could depute such employees to other

colleges on administrative exigencies. Certain arrangement may be required for the purpose of maintaining the university intact.

7. Sometimes, there may be some error while settling the administrative issues. After taking over the entire University by the Government, teaching faculty and non-teaching staff are bound to co-operate with the administration for the settlement of such issues. Contrarily, if they initiate litigation, it would be difficult for the administrative to settle down to rectify the illegality and irregularity.

8. By virtue of the order of deputation, the service conditions of the writ petitioner has not been affected. The writ petition would be maintainable if the service conditions are violated or if the rights of the writ petitioners are infringed. In all other circumstances, the Professor/Assistant Professor is bound to work wherever she is posted. Place or post can never be claimed as a matter of choice. Thus, they are bound to serve in the interest of the education of the students studying in various colleges and therefore mere deputation would not cause any infringement of the rights of the writ petitioner so as to issue a writ under Article 226 of the Constitution of India. Though, the learned counsel for the writ petitioner urged this Court by stating that Juniors are retained in Annamalai University, these are all aspects to be considered by the Competent Authority in the interest of administration.

9. Deputation is an administrative exigency. Various employees are deputed to other institutions for the efficient functioning of the administration. There is no such statute that a senior should not be deputed. The seniority list is maintained for the purpose of promotion alone, but for deputing an employee, all such concepts are unnecessary.

10. In the present case on hand, the rights of the writ petitioner in the service conditions are followed. Even after deputation, issues such as seniors, rank and difference in salary, if any, could be claimed as per the rules in force. This being the factum, because of deputation the writ petitioner cannot be construed as an aggrieved person. Mere transfer or deputation on administrative exigency can never be construed to provide cause of action for the purpose of moving a writ petition.

12. This Court has earlier considered similar issues of deputation in W.P.No.13429 of 2017 and pass an order as follows:

6. In respect of the contention of the writ petitioner that two juniors were retained in Annamalai University, it is contended that these two Assistant Professors were appointed contrary to the UGC Regulation

and they are not qualified to hold the post of professors. Show cause notices were issued to them and disciplinary proceedings were initiated. Even if the disciplinary proceedings are not initiated, it is the duty mandatory on the part of the authorities to initiate the disciplinary proceedings if the professors and Assistant Professors are appointed in violation of the UGC Regulations. Thus, the writ petitioner cannot compare the other two persons, who are retained in Annamalai University against whom disciplinary proceedings are initiated as they are not qualified to hold the post of Assistant Professors.

7. In this view of the matter, the relief as sought for in this writ petition cannot be granted. Accordingly, this writ petition is dismissed. No costs.

13. The Hon'ble Division Bench also pass an order in the very same subject in the Writ Appeal No.16 of 2019 dated 21.01.2019.

We are afraid that the contention of the learned counsel for the appellants cannot be accepted. Annexure-II extracted above shows that teaching staff list of Centre of Advanced Study in Marine Biology, Faculty of Marine Science, Annamalai University. The said annexure shows that all the persons who are junior to the writ petitioners/appellants and who have been continuing in the University are those who are working on an existing on going projects. The University is facing acute financial crush and surplus staff is the <http://www.judis.nic.in> main reason for the financial crunch. Government is actually extending concession to these persons by sending them out for a period of three years.

11. This being the principles to be followed, the very basis for filing of the writ petition deserves no meritorious consideration. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssb

To

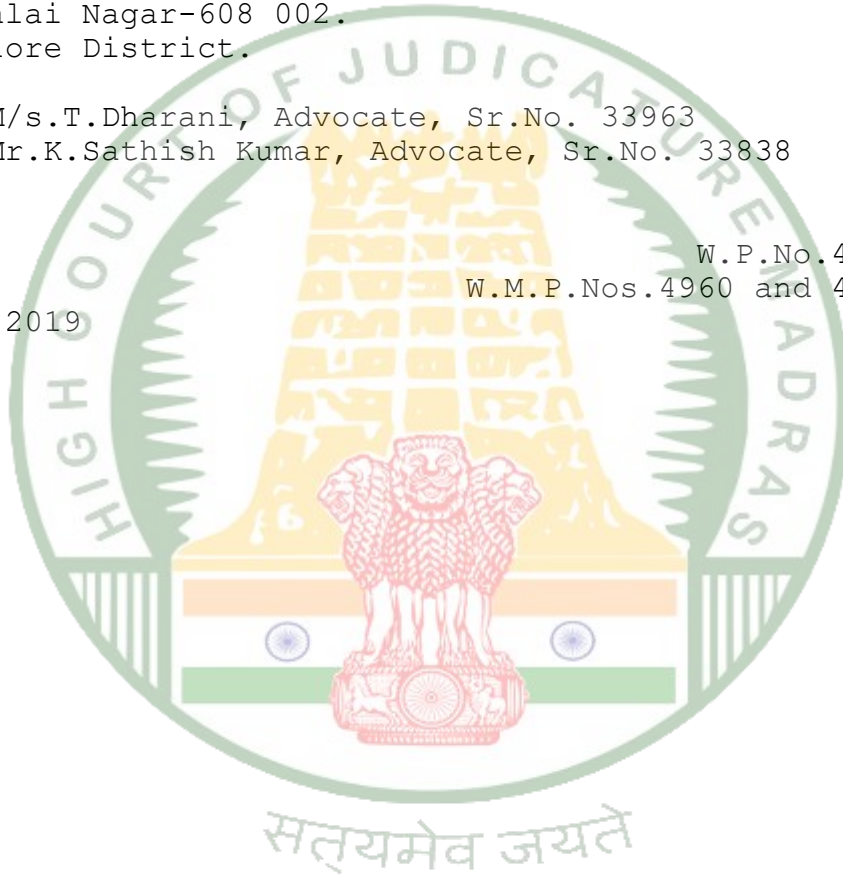
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+1 cc to M/s.T.Dharani, Advocate, Sr.No. 33963
+1 cc to Mr.K.Sathish Kumar, Advocate, Sr.No. 33838

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CSL/27.05.2019



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