

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2019

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.3328 of 2019

and

W.M.P.Nos.3603 and 3607 of 2019

P.S.Abi

...Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Higher Educational Department,
Chennai -600 009.

2.The Registrar,
Anna University,
Guindy, Chennai - 600 025.

3.The Dean,
University College of Engineering Arni,
(Constituent College of Anna University, Chennai)
Arni - 632 326
Thiruvannamalai District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ, order, or direction more particularly a writ in the nature of Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 2nd respondent in Procs.No.001/CCC-2/UCEA/TF/VF/2019 dated 07.01.2019 and to quash the same in so far as appointing the petitioner as Teaching Fellow in University College of Engineering, Tindivanam is concerned and consequently directing the Respondents to appoint the Petitioner as Teaching Fellow in the 3rd respondent College for continuous service from 07.01.2019 to 30.06.2019 in order to continue to work as Teaching Fellow in the 3rd respondent College.

For Petitioners : Mr. G.Sankaran

For Respondents : Mr.A.Rajaperumal

Additional Governmenr Pleader
for R1

: Mr.P.Shanmugasundaram
for R2 and R3

O R D E R

The order dated 07.01.2019 engaging the writ petitioner as temporary teaching staff is under challenge in the present writ petition.

2. The learned counsel for the writ petitioner states that the writ petitioner is fully qualified for the appointment to the post of Assistant Professor in Engineering as per AICTE norms as well as the University Grants Commission Regulations. The writ petitioner is an aspiring candidate for securing the public employment as he is fully qualified. The Writ petitioner was initially engaged as temporary teaching fellow in the Anna University. The order engaging the writ petitioner as temporary teaching fellow provides the following terms and conditions:-

- "1. The assignment will be on contract basis for a period from 07.01.2019 to 30.06.2019. He will be paid a consolidated salary of Rs.25,000/- (Rupees Twenty Five Thousand Only) per month.
2. He is eligible for one day Casual Leave per month for this period of service.
3. He will be governed by the Anna University employees Conduct Rules as in force from time to time.
4. The Consolidated salary payable is for a full time assignment.
5. The nature of work and duties shall be assigned by the Dean i/c. University College of Engineering, Arni. And the authorities of the University from time to time.
6. The assignment does not confer any right or privilege for a regular, permanent or tenure appointment in the University.
7. He is informed that the assignment is purely temporary and is liable for termination.
8. He is directed to give one month prior notice before leaving the post.
9. He shall report to the Dean i/c, University College of Engineering Arni.
10. He is further informed that his further continuance beyond 30.06.2019 will be assessed on need basis and on the policy that will be prevalent at that point of time.
11. Subject to the above condition, he may continue further with his written consent."

3. The learned counsel for the petitioner states that for the past about 8 to 9 years, the writ petitioner was engaged as temporary teaching fellow in the 3rd respondent College at Arni.

However, the present impugned order dated 07.01.2019 is passed, engaging the writ petitioner as temporary teaching fellow to work at University College of Engineering at Tindivanam. The impugned order engaging the writ petitioner in a different college is questioned on the ground that the respondents have discriminated the writ petitioner from all other persons who were engaged as temporary teaching fellow and allowed to work in the same college for number of years. The writ petitioner alone is posted to some other college to work as temporary teaching fellow and therefore, the writ petitioner is constrained to move the present writ petition.

4. The learned counsel for the writ petitioner states that the respondents are adopting a method which is not in consistent with the rules in force. The respondents are engaging the temporary teaching fellow at their whims and fancies and posting them to different colleges without considering the fact that these temporary teaching fellows are serving in one college for number of years.

5. This Court is of an opinion that the very engagement is temporary in nature. The terms and conditions stipulated in the order engaging the writ petitioner as temporary teaching fellow categorically states that the assignment will be on contract basis for a specific period. The salary of Rs.25,000/- will be paid on monthly basis. The nature of work and duty shall be assigned by the Dean. It is informed that the assignment does not confer any right or privilege for a regular, permanent or tenure appointment in the University.

6. It is further unambiguously stated that the assignment is purely on temporary and is liable for termination. The writ petitioner is directed to give one month prior notice for leaving the post. Further continuance will be assessed based on the policy and need basis. In the event of accepting the condition, the writ petitioner may continue further with his written consent.

7. On a perusal of the entire order dated 07.01.2019, and the earlier orders engaging the writ petitioner as temporary teaching fellow categorically enumerates that, the offer is made by the University and in the event of accepting the offer, the writ petitioner may continue in the post as temporary teaching fellow. Thus, there is no compulsion on the part of the writ petitioner to accept the order of assignment. The order is an assignment provided to the writ petitioner and it is left open to him to accept it or to reject it in the event of accepting the engagement, it is mandatory on the part of the writ petitioner to abide by the terms and conditions stipulated in the order dated 07.01.2019.

8. Under these circumstances, this Court has to consider whether the writ petitioner gets any right to adjudicate the issue that he is not posted in the college wherein he was earlier engaged as temporary teaching fellow. Undoubtedly, the engagement of the writ petitioner as temporary teaching fellow is for a specific period and by way of a specific order with terms and conditions. Thus, the writ petitioner has no right to claim any further appointment in a particular place, post or in a college. When the order engaging the writ petitioner as temporary teaching fellow categorically enumerates the period of service. After the expiry of the period, any new appointment is subject to further conditions or a new condition to be imposed by the University if any on their decision.

9. This being the principles, this Court is of an opinion that the writ petitioner cannot claim the temporary teaching fellow as a matter of right and more specifically, for his continuance in the same college or in the same post of his choice. Even in a permanent employment, post or place can never be claimed as a matter of choice. Public servants are posted on administrative grounds by the Competent Authorities for efficient public administration. When the regular Government employee are not having any right over the place or post, this Court is of an opinion that the writ petitioner who was engaged as temporary teaching fellow cannot have any legal right so as to claim an order of such engagement in a particular college or in a particular post.

10. The learned counsel appearing on behalf of the respondent when questioned why regular appointments are not made in the sanctioned posts. He replied that on account of the certain administrative exigencies, now University is cleaning up the administration and it would take some more time for the University to clear all these hurdles and appoint regular lecturers / Assistant Professors in all Engineering Colleges strictly following the University Grants Commission Regulations and AICTE norms. In the event of issuing any such recruitment notification for permanent appointment, it is left open to the writ petitioner to participate in the selection process if they are otherwise qualified and eligible in accordance with law.

11. However, in respect of the present challenge, this Court is of an opinion that the writ petitioner has no right to adjudicate and it is for the writ petitioner either to accept the order of engagement as temporary teaching fellow or to reject it. In the event of acceptance, they have to give a consent in writing to the Registrar, Anna University, enabling

them to join on duty. In the event of showing any non-interest, the writ petitioner need not provide consent and it is for the petitioner to take the decision in respect of their future career and prospects. However, this Court wishes the writ petitioner for securing a better employment through open competitive process and by establishing their merits.

12. Accordingly, the writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

pkn/kmm

To

- 1.The Principal Secretary,
State of Tamil Nadu,
Higher Educational Department,
Chennai -600 009.
- 2.The Registrar,
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