

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.04.2019
CORAM
THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.11458 of 2019
and
W.M.P.No. 11736 of 2019

A.Thamaraiselvi M.Sc., MCA,
Assistant Professor/Programmer,
Examination Section,
Annamalai University,
Annamalai Nagar,
Chidambaram,
Cuddalore District

.. petitioner

Vs

Annamalai Univerisity
Represented by its Registrar,
Annamalai Nagar,
Chidambaram,
Cuddalore District

.. Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the respondent pertaining to Unviersity Order No. 137/2017(c) dated 28.02.2017 and quash the same as illegal.

For Petitioner : Mr.A.Arulmozhi

For Respondent : Mr.K.Sathishkumar,
Standing Counsel

O R D E R

The Show Cause Notice dated 28.02.2018, issued by the respondent is under challenge in the present writ petition.

2. The learned counsel appearing on behalf of the writ petitioner made a submission that the petitioner studied B.Sc., (Mathematics) in Baharathidasan University and M.Sc., in Applied Science in Branch Operations Research in Regional Engineering College (REC), Trichy. The petitioner was selected as Trainee (Junior Data Entry Operator) for computerising the work in the Directorate of Distance Education and Controller of Examinations Wings, based on her qualification of M.SC., in Applied Science in the Branch Operations and Research. The writ petitioner was initially appointed for a monthly consolidated stipend and thereafter, appointed as Junior Data Entry Operator on

consolidated pay of Rs.900/- per month.

3.The learned counsel for the writ petitioner states that the writ petitioner is fully qualified and eligible for appointment to the post of Junior Data Entry Operator and she is already working on temporary basis as a consolidated pay employee. The writ petitioner was further promoted to the post of Computer Programmer and working as such.

4. The impugned Show Cause Notice is issued by the respondent stating that the writ petitioner was not possessing the requisite educational qualification for appointment to the post of Computer Programmer. Thus, the writ petitioner is not eligible to continue in the post of Computer Programmer in order to scrutinise the educational qualifications possessed by the writ petitioner.

5.The Show Cause Notice was issued requesting the writ petitioner to offer her explanations as regard to not possessing the requisite educational qualification for the post of Computer Programmer.

6.It is further stated that the explanations through proper channel should reach the office of the respondent within a period of 15 days from the date of receipt of a copy of the Show Cause Notice. The writ petitioner had already submitted her explanations on 22.03.2017 and once again on 31.10.2017. However, no final decision has been taken by the respondent. Thus, petitioner is constrained to move the present writ petition.

7. This Court is of the considered opinion that no writ can be entertained against a show cause notice in a routine manner. Judicial review against the show cause notice are undoubtedly limited. A writ against a show cause can be entertained only if the same has been issued by an incompetent authority having no jurisdiction or an allegation of mala fides are raised or the same is in violation of the statutory rules in force. Even in case of raising allegation of mala fides, the authorities against whom such an allegation is raised, to be impleaded as a party respondent in the writ proceedings in his personal capacity. In the absence of these legal grounds, no writ proceedings can be entertained and the writ petitioner has to wait for the final decision to be taken by the competent authorities by considering her explanations as well as the materials available on record.

8. The learned counsel for the writ petitioner states that the petitioner is fully qualified to hold the post of Computer Programmer. It is further contended that necessary equivalent

certificate submitted to the competent authorities for consideration. Under these circumstances, the respondents are bound to consider all the documents produced by the writ petitioner with reference to the UGC regulations as well as the Service Rules of the University and take a decision on merits and in accordance with law.

9. At this stage, when the respondents have issued the Show Cause Notice, this Court cannot adjudicate such facts and circumstances by verifying the original documents to be produced by the writ petitioner. Such an exercise cannot be done by the High Court under Article 226 of the Constitution of India.

10. Thus, the respondents are bound to consider all the materials available on record as well as the explanations submitted by the writ petitioner and take a decision and pass orders as expeditiously as possible without causing any undue delay.

11. With these observations, the present writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

kmm/pns

To

The Registrar,
Annamalai University
Annamalai Nagar,
Chidambaram,
Cuddalore District.

+1 cc to Mr.A.Arul Mozhi, Advocate, Sr.No. 37360

CSL/28.05.2019

W.P.No. 11458 of 2019