

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.06.2019

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MS.JUSTICE P.T.ASHA

W.A.No.1839 of 2019

and

CMP.No.12475 of 2019

1. Dr. K.M.Chinnadurai

2. Dr. C. Loganathan

..Appellants

Vs

1. The Principal Secretary to Government,
Higher Education (H1) Department,
Fort St.George,
Chennai 9.

2. Registrar,
Bharathiyar University,
Coimbatore 46.

3. The Directorate of Collegiate Education,
9th Floor,
EVK Sampath Buildings,
College Road,
Chennai 600006.

4. Dr. D. Srinivasan

5. Dr.A. Murugavel

6. Dr. K.V.Surendiran

.. Respondents

Prayer: Writ Appeal is filed under clause 15 of the Letters Patent praying to set aside the order of the learned Judge in W.P.No.17645 of 2018 dated 27.11.2018 and allow the Writ Appeal.

Prayer in WP.No.17645 of 2018:

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in Letter No.10842/H2/2018-1 dated 27.06.2018 and quash the same as illegal and consequently direct the respondents to permit the petitioners to continue their services till they attain the age of 65 years on superannuation.

For Petitioners : Mrs. Hema Sampath, Senior Counsel
for Mr. S. Raveekumar

For Respondents : Mr. C. Munsamy for R1 and R3

JUDGMENT

(Judgment of the Court was delivered by P.T.ASHA, J)

The above intra court appeal is filed challenging the order passed by the learned Single Judge in W.P.No.17645 of 2018 dismissing the Writ Petition and negating the request to direct the respondents to permit the appellants to continue in service till they attain superannuation at the age of 65 years.

2. The facts in brief necessary to dispose of the above writ appeal are as follows:

The appellants are working as Principals in self financing private colleges. These colleges are not getting any grant or fund either from the Government or the University Grants Commission. The appointments of the appellants were made as per the norms of the University Grants Commission, hereinafter referred to as 'UGC'.

3. It is seen that by G.O.Ms. No.325 dated 18.08.2003, the first respondent had directed the Registrar of all Universities and the Director of Collegiate Education that no retired teachers after the age of 62 could be appointed into any statutory or non-statutory posts in the universities and colleges. Thereafter by Regulation dated 30.06.2010, the UGC had enhanced the age of superannuation to 65 years .

4. While that being so, the first respondent had addressed a communication dated 24.03.2018 to the Registrar of the 2nd respondent University stating that resolution No.360 passed on 13.09.2017 by the Syndicate of the 2nd respondent that the age of retirement of Principal of self financing colleges to continue at the existing age limit of 65 years should be modified in keeping with G.O.Ms.No. 325 dated 18.05.2003.

G.O.Ms.No.325 provided directions to the Registrars of all the Universities as well as the Director of Collegiate Education that no retired teachers after the age of 62 could be appointed. Since this affected the appellants they had come forward with the Writ Petition, which is the subject matter of the instant appeal.

5. The Writ Court by order dated 27.11.2018 had dismissed the Writ Petition on the ground that the retirement age fixed by the Government being a policy decision, the Court cannot interfere in such decisions. Challenging the said order, the appellants are before this Court.

6. Heard Mrs. Hema Sampath, Senior Counsel appearing for Mr.Raveekumar, learned counsel for the appellants and C. Munsamy, Special Government Pleader appearing for first respondent and third respondent.

7. From a perusal of the impugned order, it is seen that the learned Judge has not taken into consideration the revised regularization of the UGC and also the minutes of the second respondent University.

8. In view of the above, we deem it fit to dispose of the Writ Appeal with a direction to the first respondent to revisit the order in G.O.Ms.No.325 Higher Education (H1) Department dated 18.08.2003 taking into account the Regulation of the UGC dated 30.06.2010 and the Regulation of the Anna University, Chennai as amended on 21.02.2007 wherein the maximum age for holding the posts of Director/Principal has been shown as 65 years. The first respondent shall complete this exercise on merits and as per law within a period of two (2) months from the date of receipt of copy of the Judgment. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

mrn

To

1. The Principal Secretary to Government,
Higher Education (H1) Department,
Fort St.George,
Chennai 9.

2. Registrar, Bharathiyar
University,
Coimbatore 46.

3. The Directorate of Collegiate Education,
9th Floor, EVK Sampath Buildings,
College Road, Chennai 600006.

+2ccs to Mr.S.Ravee Kumar, Advocate, S.R.No.49172
+1cc to the Government Pleader, S.R.No.50109

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SV(CO)

RRS(19/08/2019)



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