

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE M.SUNDAR

Review Application No.700 of 2017
and
W.M.P.No.34493 of 2017
in
W.P.No.27011 of 2017

V.Mariappan

.. Petitioner

-vs-

- 1.The Chief Secretary to Govt.,
Chief Secretariat,
Government of Puducherry,
Puducherry-605 001.
- 2.The Secretary to Govt. (Higher & Tech. Education),
Chief Secretariat,
Government of Puducherry,
Puducherry-605 001.
- 3.The Director,
Directorate of Higher and Technical Education,
Government of Puducherry,
Puducherry.
- 4.Pondicherry Engineering College,
Rep., by its Principal,
Pillaichavady, Puducherry-605 014.
- 5.Perunthalaivar Kamarajar Institute of
Engineering and Technology,
Rep., by its Principal,
Nedungadu, Karaikal, U.T.Puducherry-609 603.
- 6.P.Thambidurai,
Principal In-Charge,
Perunthalaivar Kamarajar Institute of
Engineering & Technology, Nedungadu,
Karaikal, Puducherry-609 603.

.. Respondents

Review Application under Order XLVII Rule 1 read with Section 114 of Code of Civil Procedure, 1908 to review the order dated 03.11.2017 made in W.P.No.27011 of 2017.

WP.NO.27011/2017:

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of quo-warranto, questioning under what authority the 6th respondent is holding the post of Professor in Department of Computer Science Engineering, Pondicherry Engineering College, Puducherry, and officiating as Principa-in-charge of Perunthalaivar Kamarajar Institute of Engineering and Technology, Puducherry on deputation basis, in view of lack of required qualifications as prescribed in the Recruitment Rules and as per norms of All India Council for Technical Education.

For Applicant : Mr.J.Srinivasa Mohan

For RR1 to 3 : Mr.Syed Mustafa,
Special Government Pleader

No Appearance : For RR4 and 5

For Respondent-6: Mr.S.Saravanakumar

ORDER

(Order of the Court was made by T.S.Sivagnanam, J.)

Heard Mr.J.Srinivasa Mohan, learned counsel for the review applicant; and Mr.Syed Mustafa, learned Special Government Pleader for respondents 1 to 3.

2.This review application has been filed to review the order and direction issued in W.P.No.27011 of 2017, dated 03.11.2017.

3.The said writ petition was filed by the review applicant/writ petitioner seeking for issuance of a writ of quo-warranto questioning under what authority the 6th respondent is holding the post of Professor in Department of Computer Science Engineering, Pondicherry Engineering College, Puducherry and officiating as Principal-in-charge of Perunthalaivar Kamarajar Institute of Engineering and Technology, Puducherry on deputation basis, in view of lack of required qualifications as prescribed in the Recruitment Rules and as per the norms of All

India Council for Technical Education.

4.The writ petition was dismissed by order dated 03.11.2017, on the ground that it is the second writ petition filed by the review applicant/writ petitioner for the very same relief and in that process, cost was also imposed on the writ petitioner.

5.The case of the review applicant is that the first writ petition filed by him, viz., W.P.No.17296 of 2016, was disposed of by order dated 04.05.2016, by directing the representation made by the review applicant/writ petitioner to be looked into and therefore, the review applicant would be entitled to maintain the second writ petition questioning under what authority, the 6th respondent is holding the post of Professor in the Department of Computer Science Engineering in Pondicherry Engineering College, Puducherry and officiating as Principal-in-charge of the Perunthalaivar Kamarajar Institute of Engineering and Technology, Puducherry.

6.The learned counsel for the review applicant would further submit that since decision was not taken by the Government based on the review applicant's representation, he is entitled to maintain the writ petition, which is the subject matter of this review application.

7.It is to be noted that the prayer sought for in W.P.No.17296 of 2016 was for a writ of quo-warranto, which is identical to the prayer sought for in W.P.No.27011 of 2017, though slightly differently worded. Thus, though the petitioner sought for issuance of writ of quo-warranto, the Court granted lesser relief by directing the representation to be considered. The direction issued by the Court was taken note of and the Government of Puducherry has passed an order on 25.07.2016 saying that, applicant's representation dated 14.10.2015 has become infructuous, as the 6th respondent has already been repatriated to the Pondicherry Engineering College, Puducherry. The 6th respondent filed W.P.No.38141 of 2016 assailing proceedings regarding repatriation and this writ petition was disposed of by order dated 02.08.2017.

8.Mr.J.Srinivasa Mohan, would contend that the representation has not been considered and in fact, the representation has been disposed of as having become infructuous.

9.In any event, the order dated 25.07.2016 having not been challenged, the question of the writ petitioner now maintaining the second writ petition for the very same relief as that of the earlier writ petition is not sustainable. Apart from that, the

petitioner has not been able to point out any error which is apparent on the face of the order so as to exercise review jurisdiction.

10. For the above reasons, we find no merits in the review application.

11. In the result, this review application is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

12. After we dictated the order, Mr. J. Srinivasa Mohan, submitted that the Court may consider waiving the cost which has been imposed. We find no ground to waive the cost. However, taking note of the submissions, we reduce the cost from Rs.10,000/- (Rupees Ten Thousand only) to Rs.5,000/- (Rupees Five Thousand only) payable by the review applicant within a period of three weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

abr

To

1. The Chief Secretary to Government,
The Chief Secretariat,
Government of Puducherry,
Puducherry-605 001.
2. The Secretary to Govt. (Higher & Tech. Education),
Chief Secretariat,
Government of Puducherry,
Puducherry-605 001.
3. The Director,
Directorate of Higher and Technical Education,
Government of Puducherry,
Puducherry.

+1cc to Mr.S.Saravanakumar, Advocate sr.59846
+1cc to Mr.J.Srinivasa Mohan, Advocate sr.no.60041
+1cc to Government Pleader (Puducherry) sr.59670

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in W.P.No.27011 of 2017

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nr 18/09/2019