

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2020

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.33252 of 2004

R.Kumarakrishnan

..Petitioner

Vs

1.The Syndicate of the Anna University
Rep.by its Registrar,
Chennai - 600 025.

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

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking issuance of writ of certiorari to call for the records relating to the Resolution of the 1st respondent bearing No.164.12.4 dated 29.10.2004 and the consequential order of the 2nd respondent in his proceedings No.121/PR 42/99 dated 10.11.2004 and quash the same.

For Petitioner : Mr.R. Kannan
For Respondents : Mr.V.Govardhanan
for M/s.Row & Reddy

ORDER

The prayer made in this writ petition is to issue a writ of certiorari to quash the resolution passed by the first respondent bearing No.164.12.4 dated 29.10.2004 and the consequential order of the second respondent proceedings No.121/PR42/99 dated 10.11.2004.

2.According to the petitioner, he was initially appointed as a Junior Technical Assistant in the then Thanthai Periyar Corporation, Villupuram, thereafter, he was transferred to Pallavan Transport Corporation, Chennai and promoted as a Assistant Tradesman. Subsequently, he was deputed to the second respondent University as a Junior Technical Assistant for a period of one year. Thereafter, the University made a request to the Metropolitan Transport Corporation for permanent absorption of the petitioner in the service of the University. Though the first respondent Syndicate University passed a resolution dated 26.02.2003 and ratified the permanent absorption of the petitioner in its service and appointed the petitioner as a Senior Technical Assistant with effect from 24.02.2003. Based on which, the

Corporation by letter dated 29.3.2003 relieved the petitioner permanently from the Corporation with effect from 23.02.2000 and the same was accepted by the University subject to the approval of the first respondent Syndicate. Subsequently, the second respondent by its proceedings dated 10.11.2004 has stated that the permanent absorption was objected by the Statutory Auditors of the University, therefore, the first respondent Syndicate passed a resolution dated 29.10.2004 and resolved to revert back the petitioner to the post of Junior Technical Assistant and also to the parent Department. Challenging the same the present writ petition.

3. The learned counsel for the petitioner would submit that while the petitioner was working as a Assistant Tradesman in the Metropolitan Transport Corporation, he was deputed to the second respondent University as a Junior Technical Assistant. Based on the request made by the University the petitioner was relieved from the service of the Corporation and permanently absorbed in the service of the University. Thereafter, the first respondent Syndicate by resolution dated 26.02.2003 appointed the petitioner as a Senior Technical Assistant with effect from 24.02.2003. Therefore, the petitioner was absorbed as a permanent employee of the 2nd respondent University. However, the first respondent Syndicate passed another resolution and resolved to revert back the petitioner to the parent Department. The learned counsel would further submit that once the petitioner was absorbed as permanent employee of the University, the very same Syndicate cannot pass a resolution to revert back the petitioner to the parent Department and the petitioner has no lien with the Corporation. Therefore, the first respondent has no locus standi to pass such a resolution. Hence, the writ petition may be allowed by setting aside the orders impugned herein.

4. On 18.11.2004, this Court while admitting the main writ petition, granted an order of interim stay in W.P.M.P.No.40205 of 2004 and the same was made absolute by this Court on 19.11.2007.

5. The learned counsel for the respondents would submit that initially the petitioner was absorbed in the University subject to the approval of the first respondent Syndicate. Subsequently, the persons, who were working in the Personnel Section of the University misled the Vice Chancellor of the University that the petitioner was stepped up to two stages, therefore, the Syndicate felt that he should be reverted back to the parent Department i.e. Metropolitan Transport Corporation. Hence, the first respondent passed the resolution dated 29.10.2004. He would further submit that stepping up to two stages is against the Anna University Special Service Statutes for Administrative and Technical Services. Therefore, the Syndicate has got over the right and rectified the action made in the absorption of the petitioner.

Though the first respondent Syndicate passed the resolution to take action against the persons who were working in the Personnel Section of the University, however, there is no rule to take action against the Vice Chancellor of the University. Since this Court stayed the operation and all further proceedings pursuant to the resolution of the first respondent dated 29.10.2004 and consequential order of the second respondent dated 10.11.2004, they are not in a position to take action against the persons working in the Personnel Section, who were misled by the Vice Chancellor. Therefore, due to the pendency of the impugned stay, the petitioner was allowed to continue in the University. Hence, the writ petition may be liable to be dismissed.

6. Heard both sides and perused the materials available on record.

7. Admittedly, while the petitioner was working as Assistant Tradesman in the Corporation, he was deputed to the second respondent University. It is not in dispute that the Metropolitan Transport Corporation relieved the petitioner from the Department and he was joined in the University on deputation. Based on the request made by the University, the Corporation relieved the petitioner permanently to the service of the University from 24.02.2003. Subsequently, the first respondent Syndicate passed the resolution on 26.02.2003, which reads as follows :

' ' Resolved To Ratify the action in having permanently absorbed Thiru R.Kumara Krishnan, Assistant Tradesman who was on deputation from Metropolitan Transport Corporation (Ch.) Limited and appointed him as Senior Technical Assistant with effect from 24.02.2003. ' '

Therefore, the first respondent Syndicate accepted the permanent absorption of the petitioner in the University, however, without issuing any notice and providing an opportunity of personal hearing on 29.10.2004 the first respondent passed another resolution to revert the petitioner to the post of Junior Technical Assistant from the post of Senior Technical Assistant and also revert back the petitioner to the parent Department, which read as follows :

' ' Resolved to Revert Thiru R.Kumara Krishnan back to the post of Junior Technical Assistant from the post of Senior Technical Assistant.

Resolved further to write to the Metropolitan Transport Corporation Limited to take back Thiru.R.Kumara Krishnan from University Service.

Resolved also further to initiate appropriate action against the Personnel Section of the University for misleading the Vice

Chancellor and the Syndicate on this matter.'

Once the University absorbed the petitioner as a permanent employee, they cannot revert back the petitioner to the parent Department, if at all the petitioner committed any misconduct, action can be taken in the manner known to law. Once the Transport Corporation relieved the petitioner permanently, the second respondent also absorbed him permanently hence, the petitioner is permanent employee of the second respondent University. The first respondent Syndicate also approved the appointment of the petitioner by its resolution dated 26.2.2003, subsequently, they cannot revert back the petitioner to the parent Department. There is no such condition imposed at the time of approval made by the first respondent vide its resolution dated 26.02.2003. Therefore, this Court set aside the impugned order passed by the first respondent dated 29.10.2004 particularly second resolution i.e., Metropolitan Transport Corporation Limited to take back Thiru.R.Kumara Krishnan from University Service.

8. In that view, the order impugned in this writ petition is set aside, more particularly, second resolution i.e., Metropolitan Transport Corporation Limited to take back Thiru.R.Kumara Krishnan from University Service. However, insofar as resolution Nos.1 and 3 are concerned, the respondents at liberty to take action against the petitioner in the manner known to law and not by merely passing resolution. Accordingly, this writ petition is partly allowed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Registrar,
The Syndicate of the Anna University,
Chennai - 600 025.

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

+1cc to Mr.R.Kannan, Advocate, S.R.No. 41639

+1cc to Mr.Row and Reddy, Advocate, S.R.No. 41644

W.P.No.33252 of 2004

GPL (CO)

<https://hcservices.courts.gov.in/hcservices/>

GN (19/01/2021)