

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 21.01.2020	Delivered on 28.01.2020
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CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.7184 of 2018
and
WMP Nos.27536,12787 of 2019

K.Elumalai

.. Petitioner

.Vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
P&AR Department,
Secretariat, Fort St. George,
Chennai 600 009.
 2. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Higher Education Department,
Secretariat, Fort. St.George,
Chennai 600 009.
 3. All India Council for Technical Education (AICTE),
No.1, Nelson Mandela Marg,
Pocket 10, Sector B, Vasant Kunj,
New Delhi, Delhi 110 070.
 4. The Registrar,
Anna University,
Guindy, Chennai 600 025.
-Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to pass orders for declaring B.E.(EEE) degree as eligible qualification along with PG degree M.Tech (VLSI Design) for appointment to the post of Assistant Professor in the Department of Electronics Communication Engineering (ECE) in the Respondent University by considering the representation submitted by the petitioner dated 06.05.2017, within a time frame fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondents: Mrs.Narmadha Sampath
Additional Advocate General
Assisted by Mr.V.Kadhirvelu,
for R1 and R2.
Mr.B.Rabu Manohar
Senior Central Government
Standing Counsel for R3.
Mr.M.Vijaya Kumar for R4

O R D E R

The present writ petition has been filed for the issue of a writ of mandamus directing the respondents to pass orders for declaring B.E(EEE) degree as eligible qualification along with PG degree M.Tech (VLSI Design), for appointment to the post of Assistant Professor in the Department of Electronics and Communication Engineering (ECE), in the 4th respondent University.

2. The case of the petitioner is that he is working as a teaching fellow in the Department of Electronics and Communication Engineering at University College of Engineering, Villupuram, which is affiliated to the Anna University from the year 2013 onwards, on contract basis. His contract is extended from time to time by orders passed by the Anna University.

3. The petitioner is qualified with B.E (EEE) and has completed M.Tech (VLSI Design). According to the petitioner, a candidate who had studied B.E(EEE) and a candidate who has completed B.E (ECE) are eligible to apply for the P.G in M.Tech (VLSI Design), even as per the Tamil Nadu Common Entrance Test (TANCET). This position continues till date.

4. The 3rd respondent namely All India Council for Technical Education (AICTE), issued a notification dated 28.04.2017, framing regulations for recruitment to teaching positions. In the said notification, the 'Electronics Engineering' has been shown as a major discipline under which Electronics Engineering and Electronics and Communication Engineering are shown to be corresponding course of Engineering / Technology. The grievance of the petitioner is that EEE has not been shown as a relevant UG Degree in the corresponding course of Electronics and Communication Engineering. However, the Post Graduation Degree ME/ M.Tech in VLIS Design has been shown to be the common P.G. Degree coming under the 'Electronics Engineering' discipline.

5. In view of the above notification issued by AICTE, the petitioner wants a declaration that B.E (EEE) degree should also be treated as a eligible UG Degree for appointment to the post of Assistant Professor in the Department of ECE.

6. Mr.G.Sankaran, learned counsel for the petitioner submitted that there is a serious apprehension in the minds of the persons working with EEE as the UG Degree that they will not be considered for appointment in the Department of Electronics and Communication Engineering , since the notification of the AICTE shows it as a separate category. The learned counsel submitted that the Delhi University, Mumbai University and TANCET, clearly recognizes that VLSI Design comes under the Department of Electronics and Communication Engineering and the portions are common for both EEE and ECE and therefore, even for those who have EEE as the UG Degree, they must also be considered for appointment to the post of Assistant Professor in the Department of Electronics and Communication Engineering. The learned counsel submitted that a representation was made by the petitioner to the 4th respondent / Anna University, seeking for a declaration that B.E (EEE) is also an eligible qualification for appointment to the post of Assistant Professor in the Department of Electronics and Communication Engineering and since the same was not considered, the present writ petition has been filed before this Court. The learned counsel for the petitioner submitted that such a declaration becomes very important, since the very future of those who have completed EEE will be at Stake, if the AICTE notification is given a different interpretation and thereby, denied the opportunity to be considered for selection to the post of Assistant Professor.

7. The 4th respondent namely the Anna University has filed a Counter affidavit in this writ petition. It is seen from the Counter Affidavit that a stand has been taken to the effect that persons with a UG degree in EEE will not be considered for appointment in the Department of Electronics and Communication Engineering. A committee was formed in this regard in the year 2013 and the committee on scrutinizing the eligibility found that EEE and ECE cannot be said to be equal UG Degrees. It is further stated in the Counter Affidavit that after the AICTE Regulations in the year 2017, one more committee was constituted which went through all the Government Orders and AICTE Notification and found that the conditions that are prescribed in the AICTE notification must be strictly construed and persons with cross major cannot be considered for appointment. The Counter Affidavit also questions the locus standi of the petitioner to seek for such a declaration, since the petitioner is only engaged on contractual basis and his service itself will come to an end at the end of the contract period.

8. Mrs.Narmadha Sampath, learned Additional Advocate General, appearing on behalf of the Anna University, submitted that the University strictly follows the AICTE regulations. The learned counsel submitted that Electronics and Communication Engineering is a separate faculty by itself and it cannot be equated with EEE, which has been shown as a Separate degree in the Notification issued by the AICTE. The learned counsel submitted that unless a person possess the qualification prescribed in the AICTE regulation, he cannot be considered for appointment to the post. The learned counsel also questioned the locus standi of the petitioner, who has been appointed only on contractual basis.

9. This Court has carefully considered the submissions made on either side and also perused the materials available on record.

10. The Notification issued by AICTE dated 28.04.2017, states as follows :-

II.General

Major / core branches of Engineering and Technology with nomenclatures of UG and PG degrees relevant for recruitment in teaching positions in the technical institutions are hereby notified in the Annexure.

In addition to this, the BoG of the concerned Institution on the recommendation of duly constituted Selection Committee and with the approval of their respective State /UT/Central Government / University / DTE etc., as applicable may take appropriate decision on relevant qualifying degrees suitable for recruitment to teaching positions especially keeping in view interdisciplinary nature of emerging technologies. The same should however be notified at the time of advertisement for the posts. Incumbent faculty recruited in the past based on their qualification acquired will continue to be eligible in the departments they were recruited to.

11. The said notification elaborately deals with major branches of Engineering / Technology and their relevant / appropriate branch of UG/PG degree in Engineering /Technology. In the present case, this Court is concerned with Electronics Engineering. This Electronics Engineering is considered to be the major discipline and the corresponding course in the UG Degree has been split under various heads. Insofar as the Electronics and Communication Engineering (ECE) is concerned, separate UG Degree has been prescribed and EEE does not form part of the UG Degree that has been enlisted in the

notification. The sum and substance of the claim made by the petitioner is that there is not much difference between the Course that are taught in EEE and ECE. In order to substantiate the same, it is pointed out that both are considered to be qualifications for the PG degree in VLSI Design. Therefore, the petitioner wants EEE also to be an eligible UG Degree while considering a candidate for appointment to the post of Assistant Professor in the Department of Electronics and Communication Engineering (ECE).

12. The locus standi of the petitioner was argued and a lot was said about the contractual employment under which the petitioner has been engaged and that the petitioner will not be entitled to continue after the completion of the contractual period. This Court does not want to go into this issue, since the relief claimed by the petitioner has nothing to do with this issue.

13. The stand that has been taken by the Anna University shows that it is in line with the AICTE Notification. If EEE and ECE are to be considered common under the major discipline of Electronics Engineering, it was not necessary for the AICTE to deal with them under separate heads. It will be relevant to note that under the Electronics Communication Engineering course, EEE is not even considered the relevant / appropriate UG Degree. It provides for separate UG Degrees, which are more specific to 'Communication Engineering'. This is an area which deals with expertise. These decisions are taken only after consultation with experts and this Court cannot sit over their decisions and decide on these issues. This Court lacks the competency to decide these issues which are better left to the decision of experts. The Hon'ble Supreme Court has repeatedly held that this Court while exercising its Jurisdiction under Article 226 of Constitution of India must not get into the areas of expertise. The Hon'ble Supreme Court in [Akhil Bharat Goseva Sangh Vs. State of Andhra Pradesh and others] reported in 2006 4 SCC 162, has categorically held that this Court should not interfere with the decisions of expert bodies in technical and scientific matters in exercise of its jurisdiction under Article 226 of Constitution of India. This position of law has been reiterated time and again.

14. Since this Court is not able to find any apparent mistake or flaw in the understanding of the notification of the AICTE by the Anna University, this Court is not inclined to grant the relief as sought for by the writ petitioner.

15. In the result, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

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To

1. The Principal Secretary to Government of Tamil Nadu,
P&AR Department,
Secretariat, Fort St. George,
Chennai 600 009.
 2. The Principal Secretary to Government of Tamil Nadu,
Higher Education Department,
Secretariat, Fort. St. George,
Chennai 600 009.
 3. All India Council for Technical Education (AICTE),
No.1, Nelson Mandela Marg,
Pocket 10, Sector B, Vasant Kunj,
New Delhi, Delhi 110 070.
 4. The Registrar,
Anna University,
Guindy, Chennai 600 025.
- +1 CC to Mr.B.Rabu Manohar, Advocate sr 5969.
+1 CC to Mr.M.Vijaya Kumar, advocate sr 5869.
+1 CC to Mr.G.Sankaran, Advocate sr 6634 (29/01/2020)

सत्यमेव जयते

W.P.No.7184 of 2018

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SP (29/01/2020)