



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2020

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.8776 of 2020

and

W.M.P.No.10649 of 2020

D.Arunkumar

...Petitioner

.Vs.

1. The Government of Tamilnadu,
rep.by its Principal Secretary,
Higher Education (II) Department,
Secretariat,
Chennai-600 009

2. The Director of Technical Education,
Guindy, Chennai-600 032.

3. The Principal,
Government Polytechnic College,
Uthankarai,
Krishnagiri District

...Respondents

Prayer: Writ Petition filed under Section Article 226 of the Constitution of India praying Writ of Mandamus, forbearing the 3rd respondent from preventing the petitioner from discharging his duties as Guest Lecturer of Mechanical Engineering, Government Polytechnic College, Uthankarai, Krishnagiri District.

For Petitioner : Mr.R.Subramanian

For Respondents : Mr.S.Karthigai Balan,
Govt.Advocate

ORDER

This matter is taken up through Web hearing.

2.The writ petition is filed with the following prayer:
"to issue a Writ of Mandamus, forbearing the 3rd respondent from preventing the petitioner from discharging his duties as Guest Lecturer of Mechanical Engineering, Government Polytechnic College, Uthankarai, Krishnagiri District."



3.The case of the petitioner is that he has been working as Guest Lecturer in the third respondent college from 2017 onwards. In 2019, the first respondent issued a Government Order in G.O.(D) No.290, Higher Education (II) Department, dated 04.11.2019, appointing full time temporary Assistant Professors/Lecturers on contract basis with a consolidated remuneration of Rs.15,000/- per month. According to the petitioner, the Government has issued order in regard to admission of students to various Polytechnic courses in terms of the norms laid down by AICTE. As per the AICTE norms, the faculty student ratio for the Polytechnic colleges is 1:25.

4.The petitioner had been appointed under the above said Government Order for a period of eleven months relating to the present academic year 2019-20. According to the petitioner, from the date of his appointment as Lecturer, he has been carrying out his duties diligently. While so, in the last week of May 2020, when the petitioner went to the College, the 3rd respondent did not permit him to sign the Register and allow him to discharge his duty. The petitioner was orally informed that his services were no longer required. According to the petitioner, he has been unjustly discontinued, though his services were required by the 3rd respondent institution in terms of AICTE norms and also in the absence of regular appointments to the post, in which he was engaged. Therefore, the petitioner is before this Court with this writ petition.

5.In response to the notice ordered by this Court, Mr.S.Karthigai Balan, learned Government Advocate entered appearance for the respondents and a counter affidavit has been filed.

6.In the counter affidavit it is stated that the services of the petitioner were no longer required after the last academic year ending on 30.04.2020, as he was found to be the junior most part time Lecturer and became surplus. In the counter it is also stated that in terms of the Government Order, as per which the petitioner was appointed, his appointment was only for a period of eleven months in a year and when the petitioner was found to be surplus, along with other Lecturers, the third respondent had no choice except to discontinue his service. It is also stated in the counter affidavit that the petitioner being a contractual appointee, has no right to continue in service.

7.At this, the learned counsel for the petitioner would draw the attention of this Court to the additional affidavit filed on behalf of the petitioner refuting the averments contained in the counter affidavit. In the additional affidavit it is stated



that the first respondent alone is the competent authority to terminate the services, if necessity for continuation ceases. In the additional affidavit it is also disputed that the petitioner was the junior most part time Lecturer.

WEB COPY

8.The learned counsel appearing for the petitioner would strenuously contend that the reasons for terminating the services of the petitioner were not proper and justifiable, as there is a requirement in the third respondent College for utilizing the services of the petitioner. According to the learned counsel, in order to accommodate a junior person, the petitioner has been unjustly sent out in the middle of his appointment. The learned counsel would also submit that in any event, the petitioner submitted a representation on 04.06.2020 to the second respondent, who alone is competent to look into the grievance of the petitioner and take action on the basis of the available facts and therefore, a direction may be issued to the second respondent to dispose of the representation of the petitioner on merits, so that the petitioner may know where he stands in terms of his further continuance in the third respondent college.

9.The learned Government Advocate appearing for the respondents would submit that if any direction is issued to the second respondent to dispose of the petitioner's representation, he would have no objection.

10.Considering the above narrative, without going into the merits and demerits of the rival pleas, the writ petition is disposed of as under;

The second respondent is directed to pass orders on merits and in accordance with law, disposing of the representation of the petitioner dated 04.06.2020, within a period of four weeks from the date of receipt of copy of this order. The second respondent is also directed to take into consideration the grievance expressed by the petitioner in his representation and also take into consideration the vacancy position and the seniority of the petitioner, while complying with the direction of this Court. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar



To

1. The Government of Tamilnadu,
rep.by its Principal Secretary,
Higher Education (II) Department,
Secretariat,
Chennai-600 009.
2. The Director of Technical Education,
Guindy, Chennai-600 032.
3. The Principal,
Government Polytechnic College,
Uthankarai,
Krishnagiri District.

+lcc to M/s.R.Subramanian, Advocate, Sr.No.26394
+lcc to the Government Pleader, Sr.No.26704

W.P.No.8776 of 2020

vsn ii (co)

rr ii (16/09/2020)