



WEB COPY

W.A(MD)No.878 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2020

CORAM:

THE HONOURABLE MR. A.P.SAHI, CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A. [MD]No.878 of 2015

S.K.Raj Boj : Appellant/Writ Petitioner
Vs.

1.The Registrar
Gandhigram Rural Institute
(Deemed University)
Gandhigram - 624 302
Dindigul District.

2.The Secretary
Ministry of Youth Affairs & Sports,
Government of India,
New Delhi.

: Respondents/ Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, against the order dated 03.12.2014 passed in W.P(MD)No.589 of 2008.

Prayer in WP(MD)No.589 of 2008

For issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the first respondent issued in his reference GRI / REG / 2006 - 2007 / 48 dated 25.04.2006 and quash the same and direct to reinstate the petitioner together with the backwages and all the attended benefits and granting such other and further reliefs.

For Appellant : Mr.T.Lajapathi Roy
For Respondents : Mrs.S.Srimathy for R1
Special Government Pleader
Mr.S.Jeyasingh for R2

JUDGMENT

[Judgment of the Court was delivered by
The Hon'ble Chief Justice]

We have heard learned counsel for the appellant and learned counsel for the respondents.

2. We had adjourned the matter on 24.02.2020, by passing the following order:

"Having heard the learned counsel appearing for the appellant, prima facie, we have not been able to gather as to whether the post of Assistant Programme Officer, which is stated to have been occupied by the appellant was a duly sanctioned



substantive post. In the absence of any such material, it will be difficult to presume that the appellant was appointed on a permanent or regular basis.

2.To the contrary, the stand of the respondents is that the petitioner/appellant was appointed on year to year basis in a scheme.

3.To clarify the position, the learned counsel for the appellant prays that the matter be taken up on 26.02.2020.

4.Put up on 26.02.2020."

3. The challenge raised in the writ petition giving rise to this appeal was to the communication dated 25.04.2006, whereby, the appellant before us had claimed reinstatement as an Assistant Programme Officer in the Gandhigram Rural Institute (Deemed University), Dindigul. The contentions are manifold and the learned submits that the appellant continued for almost two decades, as such, his services could not have been dispensed with, keeping in view the nature of the appointment, the nature of the post and also no hindrance having been created even prior to that, in the absence of any legal impediment. The continuance of the appellant could not have been brought to an abrupt end by the impugned communication dated 25.04.2006 and therefore, it was prayed that the termination of the appellant should be set aside with a direction to reinstate and pay back wages.

4. Learned single Judge dismissed the writ petition holding that the nature of the engagement of the appellant was on an yearly basis and even otherwise there was no Law or Rule available to treat the appointment of the appellant of a nature beyond a tenure appointment, which was only extended periodically.

5. Assailing the impugned judgment, the learned counsel contends that the learned single Judge has not taken into account the aforesaid aspects and has erroneously concluded that the appellant could not claim any right of continuance in service.

6. It was also urged by the learned counsel that the termination had been brought about without holding any appropriate enquiry and consequentially the procedure that was applicable for Teachers in the University, having not been followed, termination of the service of the appellant deserves to be set aside. The Learned single Judge, therefore, committed an error in not proceeding to interfere in the matter.

7. We have considered the submission raised and in view of the query raised by us vide order dated 24.02.2020, we do not find any satisfactory answer, having been given by the learned counsel.

8. We are unable to extend any relief inasmuch as none of the documents that have been brought on record, nowhere indicate the



creation or sanction of a substantive post of Assistant Project Officer. Mentioning of the post in the document also does not come to the aid of the appellant.

9. It is further pointed out by the learned counsel for the appellant that the appellant is now at a very advanced age and the respondent University is under an obligation to release the terminal benefits of the appellant, after his discontinuance.

10. We direct the University that in the event any financial or pecuniary emoluments to which the appellant is entitled and which the University is obligated to pay under the Rules shall be considered and an appropriate order shall be passed and communicated to the appellant within six weeks of the date of presentation of a certified copy of this order before the competent authority, in the event, it is found by the University that the amount is payable, the same shall be released forthwith thereafter. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

RR

To

1.The Registrar

Gandhigram Rural Institute
(Deemed University)

Gandhigram - 624 302,Dindigul District.

2.The Secretary

Ministry of Youth Affairs & Sports,
Government of India, New Delhi.

+1 CC to M/s.T.LAJAPATHIROY, Advocate (SR-8848[F]

+1 CC to M/s.S.JEYASINGH, Advocate (SR-8926[F] dated 27/02/2020)

+1 CC to M/s.S.SRIMATHY, Advocate (SR-8633[F] dated 27/02/2020)

JUDGMENT MADE IN

W.A.[MD]No.878 of 2015

26.02.2020

SMA/11/03/2020/3P/6C