



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 05.02.2021

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.34912 of 2004

and

W.P.M.P.Nos.42123 & 42124 of 2004

Dr.P.Santhana Raghavan

... Petitioner

Vs.

The Registrar
Anna University
Chennai - 600 025.

... Respondent

Prayer: Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorari calling for the records from the file of the respondent herein in Procs.91197/PR-13/98 dated 26.8.2004 and quash the same.

For Petitioner	: Mr.Potharaju Ashutosh
	For M/s.Aiyor & Dolio
For Respondent	: Mr.V.Govardhanan
	For M/s.Row & Reddy

ORDER

The prayer sought for in this writ petition is to issue a writ of certiorari to call for the records from the file of the respondent herein in Procs.91197/PR-13/98 dated 26.8.2004 and quash the same.

2.The petitioner herein was employed as Assistant Professor in the respondent University. While he was in service, the petitioner was offered a post Doctoral Position at National Tsinghua University, Taiwan. The petitioner opted to take the above position in order to gain more exposure in the field of crystal growth and sought for permission in the respondent University to allow him to accept the offer.

3.Accordingly, the University permitted the petitioner to accept the offer and sanctioned the extraordinary leave for one year from 25.05.2001 to 25.05.2002 on condition that, he shall execute a bond of Rs.1,00,000/- and he shall rejoin duty by expiring of one year. Only with this condition, the petitioner was permitted to join in the Post Doctoral Position in the Foreign University, as stated above.



4. Accordingly, the petitioner seems to have joined in the University in the post Doctoral position. However, after completion of one year, he did not rejoin duty in the respondent University and he further requested for one year extension of his extraordinary leave upto 24.05.2003. This was examined by the University and taking into consideration of the request made by the petitioner that, only one year further extension was sought for and on completion of one year further extension, he would come and join in the respondent University, that was also permitted, thereby one year further extension of extraordinary leave on loss of pay was permitted and the petitioner was directed to rejoin duty by 25.05.2003 and it has also been made clear that, no further extension would be given and if the petitioner does not come back and join the duty at the respondent University on completion of the extended period of one year i.e., on 25.05.2003, his service will be terminated.

5. Even though the further extended period of one year was over by May 2003, still the petitioner since has not turned back and joined service, further time was given by the University upto 15.09.2003, on or before, the petitioner was directed to rejoin duty. Even till the extended date i.e., 15.09.2003, since the petitioner has not returned back to India and joined duty, the case of the petitioner was considered by the Syndicate of the respondent University, where, they have resolved to terminate the service of the petitioner with effect from 26.05.2001, accordingly, his services were deemed to have been terminated from that date and he was directed to pay the bond amount of Rs.1,00,000/- with interest immediately.

6. Conveying this, an order has been passed by the respondent University on 26.08.2004 which is under challenge in this writ petition.

7. Mr. Potharaju Ashutosh, learned counsel appearing for the petitioner would submit that, if at all the respondent University is stick on their decision to terminate the service of the petitioner, let the decision to terminate the service be altered into a voluntary resignation. Also, it was submitted that, the petitioner was not intended to rejoin the respondent University, but his only concern is that, the decision of the University terminating the services of the petitioner shall be altered as voluntary resignation and in this regard, an affidavit also can be filed before this Court.

8. However, Mr. V. Govardhanan, learned Standing Counsel appearing for the respondent University, on instruction, would submit that, the respondent University is not willing to take him back and also the request made by the petitioner that, his termination shall be altered into a voluntary retirement or



resignation shall not also be considered and what has been decided by the University through the Syndicate to terminate the services of the petitioner with effect from 25.05.2001, the University wants to stick on and therefore, the learned Standing Counsel for the respondent University would submit that, the order impugned is sustainable in view of the aforesaid, therefore, it does not require or warrant any interference from this Court.

9.I have considered the said rival submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

10.It is an admitted fact that, for getting a foreign post Doctoral Position in a Foreign University at Taiwan, the request made by the petitioner was accepted by the University and in that, an extraordinary leave for one year was given from 25.05.2001 on condition that, on completion of one year leave, he shall rejoin the duty and in lieu of that, the bond for a sum of Rs.1,00,000/- shall also be executed. Accepting both conditions only, the petitioner has taken the extraordinary leave of one year and joined in the Foreign University for the post Doctoral Position.

11.Subsequently, since the petitioner wanted to extend the stay in the Foreign University or Foreign soil for the post Doctoral Position or further studies, it seems that, he has made a further request to the University to extend the extraordinary leave for further one year i.e., from 2002 to 2003, that was also considered and accepted by the University with strict condition that, with the completion of that period, i.e., the extended period upto 25.05.2003, he shall rejoin the duty, otherwise his service would be terminated.

12.Taking note of all these aspects only the petitioner had been in Foreign soil continuously and even after the extended period which expired on 25.05.2003, the petitioner had not turned back and therefore, the University given the last chance by extending the time only upto 15.09.2003 and this was clearly communicated to the petitioner that, unless he join on or before 15.09.2003, his service would be terminated.

13.Despite this decision taken by the University, the petitioner has not turned back and he has not come for India and joined duty on or before 15.09.2003, therefore, the case of the petitioner was considered and decided by the Syndicate of the University, accordingly, they resolved to terminate the service of the petitioner with effect from 26.05.2003 and he was accordingly terminated and was directed to pay the bond amount of Rs.1,00,000/- with interest.



14.The said decision taken by the University, in the considered opinion of this Court, is sustainable because, there is absolutely no reason to go on extending the period of extraordinary leave for the petitioner as the position held by the petitioner in the respondent University cannot be kept vacant for ever and that will have a repercussion in the very functioning of the concerned Department of the University. Moreover, no incumbent can expect from the employer, that too like an University, to keep the position or situation vacant for some years together at the request as well as the convenience of the employee/faculty to return back and take the employment once again.

15.This kind of right has never been conferred on any employee and therefore, the petitioner does not have any right to reclaim the position, which he held.

16.Insofar as his claim that the order of termination can be altered into a voluntary resignation is concerned, that is also not a matter of right for the petitioner/employee to claim from the University, as the University is entitled to terminate the service of the petitioner for the aforesaid reason which has been judicially considered and decided by the Syndicate of the University, after giving long rope to the petitioner. Therefore, this Court does not find any infirmity in the said decision taken by the University which is reflected or conveyed in the impugned order. Therefore, this Court feels that, the petitioner cannot successfully challenge the impugned order. Accordingly, this writ petition fails, hence, it is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Sgl
To

The Registrar, Anna University
Chennai - 600 025.

+lcc to Mr.Row & Reddy, Advocate, S.R.No. 6496,
+lcc to Mr.Aiyar & Dolia, Advocate, S.R.No. 63861

W.P.No.34912 of 2004

KK(CO)
GN(23/07/2021)