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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

WRIT APPEAL NO.3276 OF 2019

C.R.Senthilkumar

...Appellant

VS.

The Registrar,
Annamalai University
Annamalai Nagar,
Chidambaram-608 002.

...Respondent

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 22.03.2019 passed by this Court in W.P.No.17846 of 2018.

Prayer in W.P.No.17846 of 2018 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the entire records pertaining to the University Order No.661/2017(c), dated 15.05.2017 issued by respondent and quash the same as unconstitutional arbitrary unreasonable being violative of the rules and principles of natural justice and thereby direct the respondent herein to reinstate the Petitioner in Annamalai University.

For Appellant : A.R.Suresh

For Respondent : Mr.Godson Swaminath
for M/s.Isaac Chambers

J U D G M E N T

(Judgment of the Court delivered by S.VAIDYANATHAN, J.)

Aggrieved by the order dated 22.03.2019 passed by the learned Single Judge in W.P.No.17846 of 2018, the Writ Petitioner has filed the present Writ Appeal.

2. The main contention of the learned counsel for the Appellant is that, the Respondent University will have to re-post the Appellant in their University, as several others including the Appellant's juniors have been re-posted in the



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Respondent University. According to the learned counsel, there is no fixed staff strength and there is no authenticated seniority list available. Even going by the counter in the present Writ Appeal, juniors to the Appellant have been re-posted in the Respondent University and that, the action of the Respondent University in continuing the Appellant/Writ Petitioner beyond three years in terms of the guidelines framed, is illegal and that, after completion of three years, the period has been extended by one year. Again, for one more year, the Appellant/Writ Petitioner has been asked to serve the University.

3. Learned counsel for the Appellant/Writ Petitioner submitted that, in the earlier round of litigation, the Court, based on the statement of the learned counsel appearing for the Respondent University, observed that, when the placement/deployment is only for a period of three years, the action of the Respondent University in not re-posting the Appellant/Writ Petitioner in service is completely illegal. Hence, according to the learned counsel, the order of the learned Single Judge is liable to be interfered with.

4. Learned counsel appearing for the Respondent University submitted that, financial and administrative mismanagement over the years has resulted in closure of the Respondent University in November 2012 and that, an Administrator has been appointed. He drew the attention of this Court to the recommendations made by the Administrator as could be seen in G.O.Ms.No.106, Higher Education (I1) Department, dated 28.04.2017 furnished at page No.19 of the Typed Set of Papers filed by the Appellant. For better appreciation, relevant portion of the same is extracted below:

"The Administrator has made the following recommendations:

- Re-deployment of surplus staff
- Revision of Block Grant
- Converting the University into affiliation type
- Takeover of Medical College and Hospital by Government and
- Sanction of special financial package to improve the financial position of the Annamalai University."

5. It is further stated by the learned counsel appearing for the Respondent University that, based on the recommendations of the Administrator, it has been decided to depute surplus teaching staff of Annamalai University to Government Colleges in consultation with the Vice-Chancellor of Annamalai University. In that process, vacancies have been identified in various Government Colleges and Professors have been posted at various places. As many as 370 surplus teaching staff in the post of



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Assistant Professor have been identified when G.O.Ms.No.106, Higher Education (I1) Department, dated 28.04.2017 was passed, apart from 86 vacancies in the post of Assistant Professor in the Government Colleges of Engineering. The Government, while passing the said Government Order, has imposed certain terms and conditions with regard to appointment of surplus staff in Government Colleges of Engineering. Apart from all other conditions, it has been mentioned that, after completion of three years service on agreement basis, they shall be recruited back to Annamalai University and the service rendered by the staff in the other Colleges will be counted for the purpose of other service benefits.

6. Learned counsel appearing for the Respondent University further submitted that, even though the agreement of employment was for a period of three years, depending upon the exigency and taking note of the fact that, the University has been closed, to safeguard the interest of Professors and their families, the Government has taken a decision to provide employment to them and only on the basis of the Agreement, the service of the Appellant/Writ Petitioner has been continued beyond three years.

7. It is further contended by the learned counsel appearing for the Respondent University that, it is incorrect to state that, the Appellant's seniors have not been disturbed. As the services of the Appellant/Writ Petitioner was required, he was continued in service apart from the fact that, staff vide S.Nos.53 to 89 in the Annexure to the counter affidavit, have also been deputed and they have not been called back by the Respondent University. Even if they are going to be called back, naturally, they have to be given employment elsewhere, and there is no chance to provide employment in the Respondent University, as it has already been closed. Hence, according to the learned counsel for the Respondent University, the Writ appeal is liable to be dismissed.

8. Heard the learned counsel on either side and perused the material documents available on record.

9. It is not in dispute that, the Appellant/Writ Petitioner is one of the affected persons on account of closure of the Respondent University and pursuant to G.O.Ms.No.106, Higher Education (I1) Department, dated 28.04.2017, the Appellant/Writ Petitioner was deputed in some other College and is continuing in service there. Merely because, the Appellant's service period is over, it does not mean that, he can be called back. Depending upon the exigency in work, his services may be utilized in any other College. That apart, there is a categorical averment that, staff vide S.Nos.53 to 89 in the Annexure to the counter Affidavit, who are seniors to the



Appellant/Writ Petitioner have continued in service only by virtue of the said Government Order.

10. Since, based on the recommendations of the Administrator, the Government has taken a decision to give new lease of life to Teachers/Professors, who will otherwise be stranded on account of closure of the University, the Appellant/Writ Petitioner, cannot, as a matter of right contend that, he has to be reposted in the University on completion of three years of service. Ultimately, it is the decision of the Administrator and there are no malafides on the part of the Respondent University in reposting a person beyond three years, more so, when he has continued in service pursuant to the Government Order.

11. Hence, we find no reason to interfere with the order dated 22.03.2019 passed by the learned Single Judge in W.P.No.17846 of 2018. Accordingly, the Writ Appeal stands dismissed. No costs. Consequently, connected C.M.P.No.26080 of 2019 is closed.

Sd/-
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

(aeb)

To:

The Registrar,
Annamalai University
Annamalai Nagar,
Chidambaram-608 002.

+1cc to Mr.A.R.Suresh, Advocate SR.No.43828

+1cc to M/s.Isaac Chambers, Advocate SR.No.44416

WRIT APPEAL No.3276 OF 2019

PA(CO)
RVM(06/10/2021)