



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12 .03.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)No.1511 of 2017

and

C.M.P(MD)Nos.12084 to 12086 of 2017

T.Murugan

... Appellant/Petitioner

Vs.

1.The Director of Collegiate Education(FAC),
Chennai - 600 006.

2.The Joint Director of Collegiate Education,
Department of Collegiate Education,
Tirunelveli.

3.The Principal,
Kamarajar Government Arts College,
Surandai - 627 859.

4.The Tamilnadu Public Service Commission,
Broadway,
Chennai - 600 104.

5.Teachers Recruitment Board,
Rep. by its Secretary,
College Road, Numbambakkam,
Chennai - 600 006.

... Respondents/Respondents

(R5 is Suo moto impleaded as per order dated 30/10/2018 in WA(MD) .
No.1511 of 2017)

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent
against the order dated 23.08.2017 in W.P(MD)No.15893 of 2017.

Prayer in WP(MD) . 15893/ 2017 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court To issue a writ of
mandamus direction in the nature of writ forbearing the 3rd
respondent form in any terminating the service of the petitioner
from the post of guest lecturers (Department of Micro Biology) from
the 3rd respondent college until filing up of vacancies of permanent
lecturers by the 4th respondent as per the GO Ms.No. 458 dated
28.10.2015, and direct the respondents 2 and 3 to consider the

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representation of the petitioner dated 30.01.2017 and 04.08.2017 to restore the seniority list/ staff attendance register of guest lecturers of the 3rd respondent college on roster basis as per the list prepared in December, 2015 within time fixed by this court.

For Appellant : Mr.A.Kannan
For R-1 to R-3 : Mr.Sricharan Rangarajan,
Additional Advocate General,
assisted by
Mr.P.Mahendran,
Additional Government Pleader
For R-4 : M/s.K.K.Senthil
For R-5 : Mr.V.R.Shanmuganathan,
Special Government Pleader

JUDGMENT

**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)**

This Writ Appeal is directed against the order dated 23.08.2017 passed in W.P(MD)No.15893 of 2017.

2.The unsuccessful writ petitioner is the appellant in the above writ appeal. The Government of Tamil Nadu had issued G.O.Ms.No.458 Higher Education (G1) Department, dated 28.10.2015 for appointment of Guest Lecturers in Government Arts and Science Colleges on roster basis. Accordingly, the third respondent herein called for applications on 11.12.2015 by way of advertisement in the newspapers calling for eligible persons to be appointed as Guest Lecturers in various subjects. The appellant herein was selected and appointed as Guest Lecturer in the Department of Microbiology on 17.12.2015 on roster basis in the category of Schedule Caste Community. The third respondent College also prepared the staff attendance register on roster basis and the writ appellant was in the second place in the Department of Microbiology out of the five Guest Lecturers selected.

3. While the matter stood thus, according to the appellant, the third respondent had violated the Government Rules and altered the staff attendance register on the basis of marks in June 2016, as per which, the appellant was placed in the last place in the Department of Microbiology as Guest Lecturer. The appellant also submitted his representation to the second and third respondents to alter the seniority list of Guest Lecturers on roster basis. While so, the writ appellant was not allowed to sign the attendant register without assigning any reasons or even terminating the service. It is further stated that the Government of Tamil Nadu had not filled up the vacancies of Lecturers through TNPSC. Therefore, the appellant had filed the writ petition for a Mandamus forbearing the third respondent in any event terminating the petitioner from the post of Guest Lecturer until filling up the vacancies of Permanent



Lecturers by the fourth respondent as per G.O.Ms.No.458 referred to above.

4. The learned singled Judge, who heard the writ petition found that there is no merit in the case of the writ petitioner and the writ petition itself was filed on mere assumptions and surmises. Aggrieved by the said order, the above writ appeal is filed.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. Mr.Sricharan Rangarajan, learned Additional Advocate General, who appeared for the respondents 1 to 3, categorically pointed out that G.O.Ms.No.458 Higher Education (G1) Department, dated 28.10.2015, clearly stated that the appointment of Guest Lecturers will subsist till the permanent Post of Assistant Professors are recruited. The above said G.O., is very specific that the appointment of the writ appellant was only on a consolidated monthly salary and said *ad hoc* employment is till such time the vacancy in the post of Assistant Professors are appointed or the last date of academic year, whichever is earlier.

7. It is submitted by the learned counsel appearing for the appellant that those Guest Lecturers, who were appointed along with the appellant were absorbed to the Post, whereas only the appellant was not permitted to sign the attendant register.

8. However, the learned Additional Advocate General would submit that the other persons possessed the Doctorate degree, which is the qualification for appointment of a Lecturer as per the UGC norms and therefore, they have been absorbed, whereas the appellant/writ petitioner is only a post graduate and that he did not qualify for the permanent post. Above all, it was contended that when the appointment of the appellant is based on G.O.Ms.No.458 referred to supra, which is only on a contractual temporary basis, the writ petition itself was not maintainable under Article 226 of the Constitution of India.

9. It is also not the case of the appellant that he cannot compete in the recruitment of the regular posts if he had the required qualification. The fact that the appellant was not permitted to sign the attendant register goes to show that he was already relieved from the service and he has got no *locus standi* to file a writ petition much less seek Mandamus for permitting him to sign the attendant register as the appointment of the writ petitioner is found to be only a contractual. Further, once a period is over or contingency cease, he cannot claim any right by filing a writ petition. Hence, there is no merit in the writ appeal.

10. In the result, the writ appeal stands dismissed confirming the learned single Judge, dated 23.08.2017 passed in



W.P(MD)No.15893 of 2017. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

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/ /2021

Sub Assistant Registrar(CS)

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To:

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+1 CC to M/s.SPL GP (SR-11180[F] dated 15/03/2021)

W.A(MD)No.1511 of 2017
12.03.2021

NA(CO)

KB(26.03.2021) 4P 7C