



WEB COPY



W.P.No.995 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2023

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THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.No.995 of 2020 and

W.M.P.No.1208 of 2020

Dr.Smarita Mishra

... Petitioner

Vs.

- 1.The Principal Secretary,
Higher Education Department,
Secretariat, Chennai 600 009.
- 2.The Director of College Education,
Office of the Director of Collegiate Education,
Chennai 600 006.
- 3.The Vice Chancellor,
Annamalai University,
Annamalai Nagar 608 002.
Cuddalore District.
- 4.The Annamalai University,
Rep.by its Registrar,
Annamalai Nagar 608 002.
Cuddalore District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records



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of the fourth respondent relating to the orders (1) University order 682/2017(C) dated 15.05.2017 (2) University Order - 202/2018(C) dated 14.05.2018 (3) Office Memorandum No.C-C./10374/2003 dated 13.06.2019 and to quash the same and consequently, direct the respondents to consider the claim of the petitioner in the light of the petitioner's representations dated 16.05.2017, 22.05.2018, 16.05.2019 and 26.05.2019 for posting her at Cuddalore or retain the petitioner in the respondent University itself in any of the existing vacancies or next arising vacancies within a time frame to be fixed by this Court.

For Petitioner : Ms.T.Dharani

For Respondents : Ms.P.Rajarajeswari, GA for R1 & R2
No appearance for R3

ORDER

This Writ Petition has been filed seeking issuance of Writ of Certiorarified Mandamus to call for the records of the fourth respondent relating to the orders (1) University order 682/2017(C) dated 15.05.2017 (2) University Order - 202/2018(C) dated 14.05.2018 (3) Office Memorandum No.C-C./10374/2003 dated 13.06.2019 and to quash the same and consequently, direct the respondents to consider the claim of the petitioner in the light of the petitioner's representations dated



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16.05.2017, 22.05.2018, 16.05.2019 and 26.05.2019 for posting her at Cuddalore or retain the petitioner in the respondent University itself in any of the existing vacancies or next arising vacancies within a time frame to be fixed by this Court.

2. Heard Ms.T.Dharani, learned counsel for the petitioner and Ms.P.Rajarajeswari, learned Government Advocate for R1 & R2.

3. The petitioner was initially appointed as Assistant Professor in the Department of Political Science and Public Administration Department, Annamalai University in the month of December 2003. The petitioner was found to be surplus and she was deputed to Government Arts College at Trichy. Aggrieved over the same, this Writ Petition has been filed.

4. The learned counsel for the petitioner submitted that the petitioner has been posted as Assistant Professor at Government Arts College, Trichy, through an order dated 15.05.2017. The deputation is



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said to be on agreement basis for the period of three years. Immediately the petitioner was relieved from Annamalai University on the Afternoon of 15.05.2017. The petitioner who found herself unable to shift to Trichy and join in the new assignment, has given a representation on 16.05.2017 to sanction her three years leave on loss of pay or to post her in a nearby place or to relieve her from the Job. Since her request did not generate any reply, she sent another communication to the Chancellor of Annamalai University on 22.05.2018 and reiterated her request. It appears from the Official Memo of the 4th respondent dated 13.06.2019 that the request for issuance of final relieving order cannot be considered because she has not submitted any Nil Arrears Certificate. In that background of facts, the petitioner now filed this Writ Petition seeking the above prayer.

5. The petitioner is seen to have rendered 14 years of service in the University and all of a sudden on 15.05.2017, she was found to be a surplus staff and hence accommodated at a Government Arts College at Trichy. Due to personal reasons, the petitioner did not join at



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Government Arts College, Trichy and sent a representation to the University to sanction three years leave with loss of pay or to depute her to a nearby place. Since her request was not considered for quite some time, the petitioner was put under dark. In pursuant to the repeated representations sent by the petitioner, the fourth respondent directed her to produce Nil Arrears Certificate. As it appears from the said order, the petitioner is not yet finally relieved from her service and the petitioner did not withdraw her request for resignation also within the prescribed time limit. But the circumstances under which she was compelled to submit the letter for resignation along with all other options is understandable that she found it not convenient to take up the job at Trichy.

6. The University cannot be blamed also. Because when the post is found to be surplus, it has to act upon. In fact the petitioner was not sent away from service but she has been given with alternate accommodation, however, at a far away place. Whatever may be the case, the petitioner cannot successfully canvas her request to be retained in Annamalai



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University or get posted anywhere nearby. In such context of the matter, I feel that the petitioner can opt to give Voluntary Retirement if she is eligible. In such case, the petitioner can get some terminal benefits for Voluntary Retirement, if it is accepted by the University.

7. Since the petitioner has not yet been relieved, she can give a fresh request for Voluntary Retirement, if she chooses to do so. On such application being submitted, the fourth respondent shall consider it on humanitarian ground and pass appropriate orders. Therefore, the petitioner is directed to give a fresh representation within a period of two weeks and the fourth respondent shall consider it on humanitarian ground and pass orders within a period of four weeks thereafter.

8. With the above observations, this Writ Petition is disposed and the petitioner is directed to give a fresh representation to the fourth respondent within a period of two weeks from the date of receipt of a copy of this order and the fourth respondent shall consider it on humanitarian grounds and pass orders within a period of four weeks



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thereafter. Consequently, connected miscellaneous petition is closed. No costs.

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Index : Yes

Internet : Yes/No

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To

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- 2.The Director of College Education,
Office of the Director of Collegiate Education,
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- 3.The Vice Chancellor,
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- 4.The Registrar,
The Annamalai University,
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R.N.MANJULA, J.

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