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WP.No.3427 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2023

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.3427 of 2021

and

WMP.No.3926 of 2021

K.Rameshwar

...

Petitioner

Vs.

1.The Secretary to Government,
Higher Education Department,
Chennai -9.

2.The Director of College Education,
(Govt.Aided College)
College Road, Chennai-6.

3.The Principal.
Agurchand Manmull Jain College,
Meenambakkam,
Chennai-114.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in pursuance of the impugned communication reply letter of the 3rd respondent in O.Mu.No.33870/G1/2019, dated 06.07.2020, quash the same and consequently, direct the 3rd respondent to reinstate the petitioner into service with all attendance and consequential monetary benefits.

For Petitioners : Mr.A.Ramalingam



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For Respondents : Mrs.P.Rajarajeswari,
Government Advocate for RR1 & 2
Mr.K.Shakespeare for R3

ORDER

This Writ Petition has been filed seeking issuance of Writ of certiorarified Mandamus, to call or the records in pursuance of the impugned communication reply letter of the 3rd respondent in O.Mu.No.33870/G1/2019, dated 06.07.2020 and quash the same and consequently, direct the 3rd respondent to reinstate the petitioner into service with all attendance and consequential monetary benefits.

2. Heard the submissions made by both side learned counsels and perused the materials available on record.

3. The petitioner who was appointed as an Assistant Professor in the 3rd respondent college has been terminated. Aggrieved over that the petitioner has filed this Writ Petition. The petitioner's request for reinstatement has not been considered by the 3rd respondent because the petitioner was employed on a contractual basis and further that he does not possess the required qualification prescribed by the UGC.

4. It was contended by the petitioner that before termination, no notice was given and as per Section 19 of the Private Colleges Regularization Act, 1976. The petitioner ought not to have been dismissed or removed or reduction in rank



nor shall his appointment be otherwise terminated except with a prior approval of the competent authority. The competent authority as seen in the said Act in the definition of Clause 12 of Section 2 would mean that any university established in the state of Tamil Nadu under any law. But the definition of the Teachers in Clause 10 of Section 2 of the Act would read as under:

'(10) "teachers" means such Professors, Assistants Professors, Readers, Lecturers, Demonstrators, Tutors, Librarians and other like persons as may be declared to be teachers by the statutes framed under any law for the time being in force governing a University;

5. The following are the conditions for appointing teacher by this University:

a) Teaching and non teaching staff shall be appointed as per norms prescribed by the University/UGC/ Government for each course including foundation course, allied and application oriented subjects.

(b) No teacher shall be appointed, if he / she has not fulfilled the qualifications as laid down by the University and UGC from time to time.

(c) Some of the courses have been exempted from the above affiliation conditions and ensure at least 50% for the sanctioned teacher strength should have qualified UGC NET/SLET/Ph.D for the following subjects Computer Science, Media Arts, English, Natya, Hotel and Catering management, Interior design, Mathematics, Social Work, Management, Communication & journalism, Biotechnology and Bioinformatic, Statistics, Yoga, Physical Education and Library Science.



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6. UGC norms prescribe that a Teacher should have been qualified in NET/SLET. Hence the petitioner is not eligible to get an appointment as a Teacher in a private college like the 3rd respondent. Even when the UGC has opted to relax the conditions for the appointment of Teachers by considering their qualification, that has been disagreed in the judgement of the Hon'ble Division Bench of this Court in ***P.Suseela and ors. Vs. University Grants Commission and The Teachers Recruitment Board and Ors*** [reported in **2011 (2) CTC 593**]. Since the petitioner and like others who were working in the 3rd respondent college are found to be possessing qualification short by the UGC prescribed norms, it could have been a reason for termination.

7. The petitioners claims that he ought to have been given with notice before termination. Since the petitioner is working in a contractual capacity, I feel any notice of such nature is also required to be served upon the petitioner. However the learned counsel for the 3rd respondent has undertaken in his counter that instead of one month notice he is ready to pay two months salary. Since the relief sought by the petitioner is beyond the authority of the respondents 1 to 3 and the appointments have to be made only in conformity with the UGC regulations, there cannot be any compromise on this score.



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R.N.MANJULA, J.

jrs

In the result, this writ petition stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

18.10.2023

Index : Yes

Internet : Yes/No

jrs

To

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