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W.A.No.2354 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.09.2023

CORAM

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE Mr.JUSTICE MOHAMMED SHAFFIQ

W.A.No.2354 of 2021

Dr.Vandana Zachariah

.. Appellant

Vs.

1.The Provincial, Chennai Province,
Loyola College,
Sterling Road,
Nungambakkam,
Chennai – 600 034.

2.The Rector,
Loyola College,
Sterling Road,
Nungambakkam,
Chennai – 600 034.

3.The Dean – Academics,
Chairperson – Grievance Redressal Committee,
Loyola Institute of Business Administration (LIBA),
Sterling Road,
Nungambakkam,
Chennai – 600 034.



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4.The Chairman, AICTE,
Nelson Mandela Marg,
Vasant Kunj,
New Delhi – 110 070.

5.The AICTE Representative,
AICTE – Southern Regional Office,
Shastri Bhavan, 26,
Haddows Road,
Nungambakkam,
Chennai – 600 006.

6.The Principal / Director,
Loyola Institute of Business Administration (LIBA),
Sterling Road,
Nungambakkam,
Chennai – 600 034.

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the
order dated 16.07.2021 passed in W.P.No.14622 of 2021 on the file of this
Court.

For Appellant : Mr.M.Guruprasad
for Mr.Ajay Francis Inigo Loyola

For RR 1 to 3 & 6 : Mr.Godson Swaminathan
for M/s.Isaac Chambers

For RR 4 and 5 : Mr.B.Rabu Manohar



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JUDGMENT

[Judgement of the Court was delivered by R.MAHADEVAN, J.]

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This writ appeal has been filed by the appellant challenging the order dated 16.07.2021 passed by the learned Judge in W.P.No.14622 of 2021.

2. It is the case of the appellant that she had joined Loyola Institution of Business Administration (LIBA) on 01.07.1996 as Junior Lecturer and thereafter, was promoted to the post of Associate Professor (Finance) on 01.09.2005 and as Professor on 01.11.2012. According to the appellant, she is entitled to continue in service upto 65 years by virtue of All India Council for Technical Education (AICTE) Rules, but, when she attained the age of 60 on 05.03.2018, the respondent authorities *vide* letter dated 01.06.2018 stated that though she has reached the age of superannuation, as per her request, she would continue in service as Professor of Finance on contract basis from 01.06.2018 to 30.06.2019 and her service was further extended by another one year upto 30.06.2020. However, she was relieved from service on 01.07.2020, instead of renewing her contract, by communication dated 01.07.2020, challenging which, the



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appellant preferred a writ petition in WP.No.14622 of 2021, and the said writ petition was dismissed by the learned Judge on 16.07.2021. Aggrieved by the same, the appellant is before this court with the present writ appeal.

3. The learned counsel for the appellant submitted that the respondent authorities failed to follow the rules laid down by the AICTE and they relieved the appellant from service on 01.06.2018 stating that she has attained the age of superannuation (i.e.) 60 years, whereas, the actual age of superannuation as per the AICTE norms is 65 years. It is also submitted by the learned counsel that by order dated 01.07.2020, the appellant was relieved from service, citing covid 19 situation; Clause 2 of the AICTE notification in No.AICTE /AB / Faculty service / 2020-21 dated 05.05.2021 clearly stated that no faculty members shall be terminated during lockdown without enough disciplinary grounds and due process of redressal; and therefore, in the absence of any disciplinary proceedings pending against her, the order passed by the respondent authorities relieving the appellant from service during pandemic situation, will have to be withdrawn and she should have been permitted to continue as a full time



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employee till the age of 65 years. In such an event, the question of contract employment would not have arisen herein. Without proper appreciation of all these factors, the learned Judge erred in dismissing the writ petition, by the order impugned herein, which has to be set aside.

4. On the other hand, Mr.Godson Swaminathan, learned counsel appearing for the respondents 1 to 3 and 6 submitted that the appellant attained the age of superannuation of 60 years on 05.03.2018 and retired from service as a full time faculty member; and on her request, she was appointed to work on contract basis as Professor for the period from 01.06.2018 to 30.06.2019 on consolidated pay and the said contract was further renewed by one year, which came to an end on 30.06.2020; since her service was no longer required, the sixth respondent did not renew the same, which was informed to the appellant vide communication dated 27.05.2020; ultimately, she was relieved from the post of Professor on 01.07.2020; subsequently, the respondent authorities settled provident fund contributions to the appellant. After a period of one year, the appellant sent a letter dated 10.06.2021 seeking to reinstate her in service. Suppressing the said fact, she



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preferred WP.No.14622 of 2021, which was rightly dismissed by the learned Judge by holding that non-renewal of contract cannot be treated as termination of service. The learned counsel further submitted that the notification of the AICTE dated 05.05.2021 is applicable only to staff members, who are in service and not the appellant, whose tenure came to an end in July 2020. It is also submitted that the nature of employment of the appellant falls within the realm of personal contract and she cannot legitimately ask for specific performance of the same. Therefore, the learned counsel prayed for dismissal of this writ appeal.

5. Mr.Rabu Manohar, learned counsel appearing for the respondents 4 and 5 affirms the decision taken by the authorities to discontinue the consolidated service of the appellant on and from 01.07.2020.

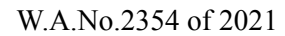
6. This court considered the submissions made by the learned counsel on either side and perused the documents enclosed in the typed set of papers.



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7. According to the appellant, she was appointed as full time faculty of the Institution and she was given various promotions as Assistant Professor, Associate Professor and finally Professor. As per the AICTE norms, the age of superannuation is 65 years and not 60 years. However, when the appellant attained the age of 60 years on 05.03.2018, the respondent authorities decided that she has reached the age of superannuation and accordingly, proceeded to record that she agreed for superannuation and thereafter, on her request, she was engaged on contract basis from 01.07.2018 to 30.06.2020, which was not renewed on and from 01.07.2020. Thus, it is the grievance of the appellant that she was wrongfully superannuated at the age of 60 years.

8. The claim of the appellant was resisted on the side of the respondent authorities by stating that the appellant, having accepted the employment on contract basis, on attaining the age of 60 years, cannot now, seek continuation in service upto 65 years, as a matter of right. Hence, the learned Judge has rightly rejected the claim of the appellant.



9. Admittedly, the appellant was relieved from service on

10. It is seen that the appellant has agreed upon that her



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11. This court is of the opinion that the scope of the communication, which was challenged in the writ petition, is only for the discontinuance of consolidated service of the appellant, with which, she cannot have any grievance, when she has already agreed to it. It is settled law that the contractual employees under a scheme can have no right to claim that they are entitled to continue in service after the agreed term of contract is over [Refer: *Resmi R.S. v. Government of India, 2019 SCCOnline Ker 2649*]. Therefore, the learned Judge is justified in dismissing the writ petition filed by the appellant.

12. In fine, this writ appeal is dismissed as it is *sans* any merit. No costs. Consequently, connected C.M.P. is closed.

[R.M.D.,J.] [M.S.Q., J.]
26.09.2023

Index: Yes / No
Speaking order/ Non-speaking order
Neutral Citation: Yes / No
nsd



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R.MAHADEVAN, J.
AND
MOHAMMED SHAFFIQ, J.

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To

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