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W.P.No.16247 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.16247 of 2014

M.P.No.2 of 2014

S.Ramakrishnan

...Petitioner

-Vs-

1. The Administrator,
Annamalai University,
Annamalai Nagar,
Cuddalore District.

2. The Registrar,
Annamalai University,
Annamalai Nagar,
Cuddalore District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the order No.250/2014(C1) dated 01.04.2014 issued by the Second respondent and quash the same and direct the respondents to continue the petitioner in the post of Special Office in the Directorate of Distance Education, Annamalai University as duly appointed in the Annamalai University appointment order No.92/2012(C1) dated 14.02.2012 with all consequential benefits including arrears of pay.



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For Petitioner : Mr.C.T.Mohan, Senior Counsel
For Mr.T.D.Mohan Ram

For Respondents : Mr.N.Ramaiah

ORDER

This Writ Petition has been filed challenging the order dated 01.04.2014, passed by the Second respondent in order No.250/2014(C1), thereby reverted the petitioner from the post of Special Officer to the post of Junior Assistant.

2. Initially the petitioner was selected for the post of Lecturer in Zoology in the Zoology Wing of the Directorate of Distance Education on a time scale of pay of Rs.8000-275-13500 with admissible allowances in the Annamalai University on 09.02.2001. He was kept under probation for one year and his post was confirmed on 21.03.2002. While being so, a complaint was received from one C.Balu alleging that, the petitioner received a sum of Rs.6,00,000/- on the promise to get a job in the Annamalai University. However, the petitioner never arranged any job and also refused to return the money.



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3. On the said complaint, the petitioner was suspended from service on 16.07.2003. Thereafter, the enquiry was conducted and based on the resolution and in pursuant to the enquiry report, the petitioner was terminated from service from 16.07.2003 onwards. Thereafter, the said C.Balu had withdrawn his complaint, since the petitioner settled the entire amount which was received from him. Therefore, the petitioner made a request for his re-employment. His request was considered sympathetically and the Syndicate members of first respondent resolved by the resolution No.38 dated 28.11.2011, appointed the petitioner afresh in a non-teaching category.

4. Accordingly, the petitioner was appointed afresh as Special Officer in the Directorate of Distance Education Study Centre, Tiruvarur, on sympathetic ground on a pay of Rs.21,000/- per month in the pay band of Rs.15600-39100 + grade pay of Rs.5400/- with admissible allowances. The petitioner also joined duty on 21.03.2012 as Special Officer in Directorate of Distance Education Study Centre, Tiruvarur. While being so, the petitioner received impugned order dated 01.04.2014, thereby cancelled the previous order and reduced the rank as



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appoint from the Special Officer to the Junior Assistant. Hence, the petitioner filed this Writ Petition challenging the said order.

5. The learned counsel appearing for the petitioner would submit that the impugned order was passed without notice to the petitioner and it is clear violation of the principles of natural justice. That apart, the petitioner was appointed only on the ground of sympathetic that too in a non-teaching post. As per the resolution dated 28.11.2011, the petitioner was appointed as Special Office in the Directorate of Distance Education Study Centre, Tiruvarur. In fact, the petitioner was appointed on certain conditions that he should not come up with fresh request to count his past services rendered as Lecturer in the Zoology wing, Directorate of Distance Education of the first respondent University.

5.1. He further submitted that in fact, after fresh appointment he never indulged any activity and no charge was served on the petitioner. Without any allegations and without any charge all of a sudden, the



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petitioner was reduced in rank from the post of Special Officer to Junior Assistant. It cannot be done and it would amount to punishment. The petitioner already completed his M.Sc., M.Phil., degree in Zoology in the year 1993 itself. The petitioner did not indulge any activity and only on the sympathetic ground he was appointed as Special Officer. Therefore, he prayer to allow this Writ Petition.

6. Per contra, the learned counsel appearing for the respondents submitted that the petitioner was originally appointed as Lecturer in Zoology Department of the Directorate of Distance Education. On the complaint lodged by one C.Balu, the petitioner initially suspended and thereafter he was terminated from service. Only on sympathetic ground, the petitioner was appointed in a non teaching post based on the resolution dated 28.11.2011, passed by the Syndicate. However, the resolution did not indicate any particular post to be given for the petitioner.

6.1. He further submitted that without any power and without following any rules, the then Vice Chancellor of the first respondent



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appointed the petitioner as Special Officer in the Directorate of Distance Education Study Centre, Tiruvarur. Therefore, the second respondent rightly reduced the rank of the petitioner to the post of Junior Assistant. That apart, the petitioner was appointed only on the ground of compassionate as such the G.O.Ms.No.42 dated 12.02.2007 is applied in respect of the petitioner. As per the said G.O., based on the clause 2.2, 2.3 and 4, C and D groups are the lower level post and they only can be offered on compassionate ground. Appointment on compassionate grounds are made in C and E groups only and therefore, the petitioner now rightly reduced to the post of Junior Assistant and prayed for dismissal of the Writ Petition.

7. Heard Mr.C.T.Mohan, learned Senior Counsel appearing for the petitioner and Mr.N.Ramaiah, learned counsel appearing for the respondents.

8. Though the petitioner was selected for the post of Lecturer in the Zoology department of the Directorate of Distance Education for the first respondent University, after charge he was suspended from



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service from 16.07.2003 and thereafter he was not reinstated into service.

Thereafter enquiry was conducted and based on the enquiry, the petitioner was terminated from service on 16.07.2003 itself, on the complaint lodged by one C.Balu. In the said complaint it was alleged that, the petitioner received a sum of Rs.6,00,000/- in order to arrange job at first respondent University. However, he failed to get job and also refused to return the money.

9. It is also seen that after termination, the petitioner settled the entire money to the said C.Balu and therefore, the said C.Balu had withdrawn his complaint. Therefore, The petitioner requested the respondents for his reappointment. On his request, the respondents' Syndicate committee convened meeting and passed resolution dated 28.11.2011, thereby resolved to appoint the petitioner afresh in a non-teaching post.

10. Pursuant to the resolution, the then Vice Chancellor passed order dated 13.02.2012, thereby appointing the petitioner as Special Officer in the Directorate of Distance Education Study Centre, Tiruvarur,



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on sympathetic ground on the pay scale of Rs.21,000/- per month in the pay band of Rs.15600-39100 + grade pay of Rs.5400/- with admissible allowances on temporary basis for a period of one year from the date of joining duty. The petitioner immediately joined the duty and continued his service as Special Officer in the Directorate of Distance Education Study Centre, Tiruvarur.

11. While being so, on 01.02.2014, he received impugned order thereby cancelled the appointment of the petitioner as Special Officer and modified as Junior Assistant to the scale pay of Rs.5200-20200 + Grade Pay of Rs.2400/- with immediate effect. The impugned order passed only on the ground that Syndicate members, while resolving to appoint the petitioner afresh in a non teaching post on sympathetic ground, did not indicate any post. Thereafter, the very same Syndicate resolved to modify the petitioner appointment to the post of Junior Assistant. It doesn't say that the petitioner was considered on compassionate ground.



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12. Admittedly, the petitioner was originally appointed to the post of Lecturer in Zoology, Zoology Wing, Directorate of Distance Education. Thereafter, he was terminated from service on 16.07.2003. After withdrawal of the complaint by one C.Babu, on the request made by the petitioner, the Syndicate resolved to appoint him afresh in a non teaching post. Though the Syndicate failed to mention any post, as per the order passed by the then Vice Chancellor dated 13.02.2012, and on the basis of the resolution passed by the Syndicate dated 28.11.2011, the petitioner was appointed as Special Officer in the Directorate of Distance Education Study Centre, Tiruvarur. Admittedly, the post of Special Officer is a non-teaching post.

13. Further, the petitioner was not appointed on the compassionate ground. Hence the G.O.Ms.No.42 dated 12.03.2007, cited by the learned counsel appearing for the respondents is not applicable to this case. Further, before passing the impugned order, the petitioner was not at all served with any notice and he was not given any opportunity before his reversion.



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14. In this regard, the learned counsel appearing for the petitioner relied upon the judgment reported in **(1988) 4 SCC 170** in the case of **Nyadar Singh Vs. Union of India** in which, the Hon'ble Supreme Court of India held that punishment by way of reduction in rank can be inflicted against a civil servant, who has been promoted to a high post. Once a person is appointed in a particular post, he cannot be reverted to a lower post than in which he was appointed. Though the petitioner was appointed on the sympathetic ground, he cannot be reverted to a lower post on the ground that the Syndicate failed to mention particular post to be given to the petitioner. Therefore, the impugned order cannot be sustained and it is liable to be quashed.

15. Accordingly, the impugned order dated 01.04.2014, passed by the Second respondent in order No.250/2014(C1), is hereby set aside. The respondents are directed to post the petitioner as Special Officer in the Directorate of Distance Education Study Centre, Tiruvarur, with all consequential benefits including the arrears of salary, within a period of six weeks from the date of receipt of a copy of this Order.



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WEB COPY 16. With the above directions, the Writ Petition stands allowed.

Consequently, connected miscellaneous petition is closed. There shall be no order as to cost.

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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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To

1. The Administrator,
Annamalai University,
Annamalai Nagar,
Cuddalore District.
2. The Registrar,
Annamalai University,
Annamalai Nagar,
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