



W.P.No.31193 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.31193 of 2022
and W.M.P. No.30629 of 2022

Dr.V.R.Vijayakumar

... Petitioner

/vs/

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Higher Education Department,
Secretariat, Fort St. George,
Chennai – 600 009.

2.The Registrar,
Anna University,
Guindy,
Chennai – 600 025.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to Procs.No.018/AU/RC-CBE/CCC-02/EC1/2022 dated 16.11.2022 passed by 2nd respondent and to quash the same and further to treat initial appointment of the petitioner as valid and proper and to grant with all consequential benefit including increments, promotion to the post of Professor with seniority and all other



W.P.No.31193 of 2022

attendant benefits including arrears of pay and other monetary benefits as prayed consequently in W.P.No.11740 of 2020.

For Petitioner ... Mr.R.Syed Mustafa

For Respondents ... Mr.T.Arunkumar
Additional Government Pleader for R1

No Appearance for R2

ORDER

This writ petition has been filed to quash the Proceeding No.018/Au/Rc-CBE/CCC-02/EC1/2022 dated 16.11.2022 passed by the 2nd respondent and further to treat initial appointment of the petitioner as valid and proper and to grant all consequential benefits including increments, promotion to the post of Professor with seniority and all other attendant benefits including arrears of pay and other monetary benefits.

2.The petitioner has been appointed as Selection Grade Lecturer on 07.08.2008 with a condition that he should acquire Ph.D for getting re-designation as Assistant Professor. On such re-designation, the post of Assistant Professor will be given to him only from the date of publication of the result.



3. There is no quarrel with regard to the order of appointment. The petitioner was conferred with the degree “Doctor of Philosophy” and he has also obtained Ph.D degree successfully in the year 2008. Subsequently, on 28.11.2008, he was re-designated as Assistant Professor by taking into account of his securing Ph.D., degree. Having conferred the above benefit, the 2nd respondent has passed the impugned order by stating the following reasons:

Qualification of Mr.V.R.Vijay Kumar is not as per the essential qualification prescribed for the post of Assistant Professor (Pre-Revised Scale) in the Department of Electronics and Communication Engineering in the respective recruitment notification dated 25.06.2008.

Finance Committee in its 141st meeting approved the absorption of Faculty members, who possess the required qualification as per AICTE (F.No.37-3/Legal/2010, Dt.22.01.2010) / Government (G.O.(Ms.)No.95 Higher Education (II) Department, Dt.05.05.2010) norms with effect from 08.07.2014 (Date of creation of sanctioned post for campus wise). The Syndicate approved the same in its 265th meeting vide Res.No.265.7, Dt.20.09.2022.



W.P.No.31193 of 2022

Mr.V.R.Vijay Kumar possessed the essential qualification for the post of Assistant Professor (6th Pay) in the Department of Electronics and Communication Engineering as per the above AICTE/Government norms. In view of the above, Mr.V.R.Vijay Kumar is absorbed as Assistant Professor (6th Pay), Department of Electronics and Communication Engineering, Regional Campus, Coimbatore with effect from 08.07.2014 (F.N.)

Mr.V.R.Vijay Kumar shall abide by the Rules/Statutes/Ordinances/Regulations of this University.

4.However, in the above order there is no explanation as to what kind of qualification the petitioner was lacking for holding the post of Assistant Professor. It is submitted by the learned Additional Government Pleader that on the date, when the petitioner was appointed to the post of Selection Grade Lecturer, the petitioner ought to have possessed the essential qualification for the post of Assistant Professor and hence, it is right on the part of the 2nd respondent to render his initial appointment itself as invalid and so, the consequences will also follow.



5. Neither in the order of appointment dated 07.08.2008 or in the order for re-designating the petitioner's post as Assistant Professor, nothing has been mentioned that the petitioner had suppressed any material facts or that he got appointment through any back door method. In fact, in the order dated 07.08.2008 itself, it has been explicitly mentioned as under:

In pursuance of the Syndicate Resolution cited, Mr. V.R. VIJAY KUMAR is appointed temporarily as Selection Grade Lecturer in Electronics and Communication Engineering (Specialisation - DCN/DCP) in the scale of pay of Rs.12,000-420-18,300 and is posted to the University Department at Anna University - Coimbatore Academic Campus, Jothipuram, Mettupalayam Road, Coimbatore - 641 047. Mr. V.R. VIJAY KUMAR will be redesignated as Assistant Professor only on acquiring the qualification of Ph.D and only from the date of publication of the result. His appointment will be subject to the following additional terms and conditions:

- 1. The appointment shall take effect from the date of his joining duty.*
- 2. His appointment shall be on regular basis and he shall be placed on probation for two years within a continuous period of three years.*
- 3. During the period of probation his performance will be closely watched and if it is not found satisfactory, the probation will be extended/terminated and he will be discharged from service.*



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4. His pay is fixed at Rs. 12,000/- in the scale of pay of Rs.12,000-420-18,300 plus usual allowances applicable from time to time.

5. He shall abide by the Rules/Statutes/Ordinances/Regulations of the University.

6. He shall work under the supervision and guidance of the Head of the Department/ Authorities concerned.

7. He shall teach the UG, PG and guide students in their projects.

8. He shall perform such other duties as may be assigned by the Head of the Department/ Authorities concerned, from time to time.

9. He shall carry out the duties of a teacher as enumerated in the Annexure, without fail.

10. He shall be governed by the Contributory Pension Scheme, as per the University rules.

11. He shall not be permitted to apply for outside appointment during the period of probation.

12. He shall resign his appointment after giving three months notice or by remitting three months salary in lieu thereof

13. No TA/DA will be paid for joining duty

14. He shall join duty on or before 18.08.2008, falling which this order of appointment shall stand automatically cancelled without further notice. However, request for extension of time for joining duty for valid reasons will be considered on merit.

15. If the above terms and conditions are acceptable to him, he shall express his willingness to accept the offer of appointment by resubmitting the duplicate copy of the proceedings, duly signing the declaration thereof, forthwith.



W.P.No.31193 of 2022

16. He shall obtain a Physical Fitness Certificate from a Government Medical Officer, not below the rank of a District Medical Officer, and furnish the same along with the acceptance of the offer of appointment.

17. He shall submit the enclosed data sheet in triplicate duly filled in and signed.

18. This appointment is purely based on the information furnished by the candidate in his application and subsequent submission of the relevant documents at the time of joining the post. However at a later date, if any information furnished is found to be false, the candidate may have to face the criminal proceedings initiated by the University authorities apart from termination of services.

19. All original certificates shall be submitted for verification at the time of joining and copy of all certificates shall be enclosed along with this order.

20. He shall report to the Registrar, Anna University Coimbatore

6.Subsequently, while issuing the order of re-designation on 28.11.2008 also it has been specifically mentioned that the petitioner has successfully completed the vivo-voce for Ph.D., on 27.11.2008. Since the 2nd respondent has considered that the petitioner fulfilled the condition that was stipulated in the appointment order dated 07.08.2008, he was conferred with the re-designation of Assistant Professor. Or in other words, the petitioner became qualified himself to be posted as Assistant Professor and thus, he got the re-designation on 28.11.2008. Having allowed the petitioner to be appointed as the Selection Grade Lecturer on the condition of



W.P.No.31193 of 2022

acquiring of Ph.D. Degree and having conferred the re-designation consequent to his completion of Ph.D. and then got his post re-designated as Assistant Professor and now getting him recruited to the post of Professor, the 2nd respondent cannot go back and say that the petitioner's initial appointment is invalid. The 2nd respondent cannot blow hot and cold by making statements contrary to his own orders issued at each and every stage of the petitioner's elevation from the post of Selection Grade Lecturer. Since the impugned order has been passed without taking into consideration of the earlier orders and the fact that the petitioner was accepted to be designated in the post of Assistant Professor, the same is liable to be set aside.

7. Accordingly, the proceeding in No.018/Au/Rc-CBE/CCC-02/EC1/2022 dated 16.11.2022 passed by the 2nd respondent is set aside and the writ petition stands allowed. No Costs. Consequently, connected miscellaneous petition is closed.

06.12.2023

Index: Yes / No
Speaking order / Non-speaking order
ssr

(2/2)



W.P.No.31193 of 2022

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To:

- 1.The Principal Secretary to Government,
Higher Education Department,
Secretariat, Fort St. George,
Chennai – 600 009.
- 2.The Registrar,
Anna University,
Guindy,
Chennai – 600 025.



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W.P.No.31193 of 2022

R.N.MANJULA ,J.

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(2/2)