



W.P(MD)No.16369 of 2020

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16369 of 2020

and

W.M.P(MD)No.13680 of 2020

M.Devakumar

... Petitioner

Vs

The Registrar,
Tamil University,
Thanjavur – 613 010.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings dated 10.09.2020 issued by the respondent in Na.Ka.No.E4/6242/2017 and to quash the same and consequently directing the respondent, to confer him the benefits of G.O(Ms)No.246 Tamil Development, Endowments and Information Department dated 12.06.2007 and G.O(Ms)No.151 Social Welfare and Nutritious Meal Programme Department dated 16.10.2008, with all consequential and other attendant benefits.



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For Petitioner : Mr.AL.Kannan
For Respondent : Mr.C.Arulvadivel @ Sekar
Senior Counsel
M/s.Arulvadivel Associates

ORDER

Heard the learned counsel appearing for the petitioner and the learned Senior Counsel appearing for the respondent University.

2.The petitioner challenges the impugned order passed by the respondent denying him the benefit of regularisation. The petitioner invokes the petition mentioned Government Orders in his favour.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for. The specific contention of the learned counsel is that the petitioner is physically challenged and that he is entitled to the benefit of G.O(Ms)No.151 Social Welfare and Nutritious Meal Programme Department dated 16.10.2008 which called upon gvarious departments to regularise the services of such individuals who had served the department for more than two years on consolidated pay basis.



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4.The respondents have filed a detailed counter affidavit and also typed set of papers. The learned Senior Counsel took me through their contents. He contended that no case for interference has been made out.

5.I carefully considered the rival contentions and went through the materials on record. The petitioner had approached this Court on two occasions. He filed W.P(MD)No.14290 of 2019 challenging the proceedings dated 03.12.2017 whereby he was relieved. This Court vide order dated 20.01.2020 set aside the said proceedings and issued the following directions:

“4.A perusal of the impugned order does not reveal consideration of the objections that could have been raised by the petitioner during the course of the enquiry. The very purpose of subjecting an employee to an enquiry is to consider the objections raised by them and any decision taken thereon should reflect the reasons assigned for non-consideration of the objections by such an employee. In the instant case, the impugned order does not state anything about the petitioner's objection with regard to the enquiry, but merely relies upon the report of the Enquiry Committee. As such, it can be termed to be in violation of principles of natural justice as well as a non-speaking order. While that being so, it would be appropriate to remit the matter back to the respondent for fresh consideration, after giving due opportunity to the petitioner.



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5. In the light of the above observations, the impugned order in Na.Ka.No.E4/6242/2017 dated 03.12.2017 is set aside. Consequently, the Enquiry Committee under the respondent University shall conduct a fresh enquiry after giving due opportunity to the petitioner and on consideration of such objection of the petitioner, if any, a report shall be submitted before the University for further course of action. The process of completing the enquiry shall be made atleast within a period of three months from the date of receipt of a copy of this order. This Writ Petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.”

6. The petitioner subsequently filed W.P(MD)No.2813 of 2017 seeking the benefit of the aforesaid Government Orders. The said writ petition was disposed of on 12.03.2021 with direction to the respondent to consider the petitioner's representation on merits and in accordance with law. Pursuant to the order given in the second writ petition, the impugned order came to be issued informing the petitioner that as and when vacancies arise in future, based on the rules and regulations, the petitioner's case will be considered. The only point that calls for consideration is whether the petitioner has made out a case for reinstatement or regularisation.

7. Even though, the learned counsel appearing for the petitioner made a Valiant bid to bring his case within the scope of the petition mentioned



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Government Orders, I am afraid that no relief can be granted. As rightly pointed out by the learned Senior Counsel appearing for the respondent University, the petitioner was never appointed to any post as such on consolidated pay basis. A number of endowments had been created and under one such endowment the petitioner was appointed as a research assistant for a brief period. Since the petitioner is having visual issues, probably taking a sympathetic view, he was not only utilised for other duties but also continued to be engaged under different endowments. There was also break in such spells of engagement. The petitioner who had been engaged and paid out of the proceeds of endowment cannot be termed as a University employee even on casual or consolidated basis. The petition mentioned Government Orders would have come to rescue of the petitioner only if the University had directly appointed him on their rolls. That is clearly not the case. I decline to interfere with the impugned order.

8.This writ petition is dismissed. There shall be no order as to costs.

Consequently, connected miscellaneous petition is closed.

28.03.2023

Index : Yes / No
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G.R.SWAMINATHAN, J.

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