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W.P.Nos.3104 of 2024 etc batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

**W.P.Nos.3104, 3106, 3108, 3109, 3182, 3189, 3190, 3191,
3156, 3158 & 3160 of 2024**

W.P.No. 3104 of 2024

S.Arrivukkarasan

....

Petitioner

Vs

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

2. The Registrar,
Annamalai University,
Annamalai Nagar,
Chidambaram,
Cuddalore – 608 002.

3. Directorate of Technical Education (DoTE),
53, Sardar Patel Road,
Guindy,
Chennai – 600 025.

....

Respondents

Common Prayer : Writ Petitions filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the second respondent in his proceedings in Office Memorandum No.C-4/48707/2023, dated 27.11.2023, quash the same and consequently, direct



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the second and third respondents to restore the petitioner to his original position
i.e., Associate Professor in Chemical Engineering.

In all W.Ps

For Petitioner	: Mr.C.Vigneswaran
For R1 & R3	: Mr.C.Jayaprakash Government Advocate
For R2	: Mr.S.Sithirai Anandam Standing Counsel

COMMON ORDER

These Writ Petitions have been filed challenging the order passed by the second respondent, thereby rejected the request made by the petitioners to restore them to their original position i.e., Associate Professor in Chemical Engineering.

2. All the writ petitions arises out of similar order passed by the second respondent, which are impugned in all these writ petitions. Therefore, this Court is inclined to pass a common order.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. The petitioners had joined the services of the second respondent



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as Lecturer in Chemical Engineering. Thereafter, they were promoted in accordance with the Career Advancement Scheme on the completion of the mandatory requirements in accordance to the AICTE Regulations. Further, they have been promoted from the post of Assistant Professor to the post of Associate Professor. While being so, the second respondent, by the proceedings dated 24.04.2023, ordered for appointment of the petitioners as Lecturer of Chemistry in Government Polytechnic Colleges for a period of three years on agreement basis, as per G.O.(D) No.106, Higher Education (H1) Department, dated 06.04.2023. Accordingly, all the petitioners had joined in their respective Polytechnic Colleges. They were deputed as Chemistry Lecturer in Polytechnic College. It is no way related to their core qualification i.e., Chemical Engineering. Therefore, they submitted representations before the second and third respondents on the ground that they are all qualified in the stream of Chemical Engineering as per AICTE Regulations, 2010. However, they were deputed as Lecturers in the Department of Basic Engineering for taking Chemistry in Polytechnic Colleges.

5. The qualifications of recruitment for the post of Assistant Professor and Lecturer are entirely different and appoint of Assistant Professors of Chemical Engineering as Lecturers in Chemistry is a violation of Rules and



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Regulations. They were not only redeployed from their designation of employment, but were also reduced from the post of Assistant Professor to Lecturers. Therefore, they sought for restoration to their original position i.e., Associate Professor in Chemical Engineering. It was not considered and as such, they approached this Court and this Court directed the respondents to consider the representations submitted by the petitioners on merits and in accordance with law. It was rejected by the second respondent.

6. The learned counsel appearing for the petitioner would submit that the redeployment has demoted the petitioner from Assistant Professors to Lecturers. They were made to neglect the core difference in Chemical Engineering and Chemistry. The redeployment will stand as a huge impediment in the promotional venue for the petitioners, because these three years the petitioners are forced to work in an entirely different stream and the same would not qualify as equivalent work experience amongst their juniors who would have work experience in Chemical Engineering. The respondents ordered for a period of only three years and the scope of employment on completion of three years is left in the dark. It is also in violation of Teachers Recruitment Board notification. It is a clear distinction between engineering and non-engineering subjects and chemistry is clearly mentioned as a non-engineering subject.



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7. A perusal of the records reveals that as per G.O.(D) No.106, Higher Education (H1) Department, dated 06.04.2023, the Government had allotted 33 surplus teaching staff in the cadre of Assistant Professor of various discipline in Annamalai University, so as to appoint them in the existing vacancies of teaching staff in the cadre of Lecturer in relevant discipline in Government Polytechnic Colleges for a period of three years on agreement basis, subject to the terms and conditions, as per Section 19 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. Accordingly, all the petitioners were appointed in the cadre of Lecturer in the Government Polytechnic Colleges and Special Institutions for a period of three years on agreement basis. All the petitioners accepted the said order and executed agreement in bond paper based on the terms and conditions.

8. The terms and conditions of the said agreement reads as follows:

“ The tenure of appointment of Thiru/Tmt./Selvi..... as Lecturer in Government Polytechnic Colleges and Special Institutions on agreement basis will be for a period of three years from the date of joining in the respective Government Polytechnic College and Special Institutions.*

** The employees shall have the qualifications for the*



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respective post.

** The employee shall submit a physical fitness certificate obtained from the registered medical practitioner at the time of joining in the College.*

** During the period of agreement, the employee is entitled to receive his/her pay and other allowances in the pay matrix applicable to the post of Lecturer in Government Polytechnic Colleges and Special Institutions with pay protection.*

** The principals of Government Polytechnic Colleges & Special Institutions shall verify the certificate of Educational qualification of Teaching staff of Annamalai University before allowing them to join the College.*

** The pension and leave salary contribution and also employer's contribution to the CPS for the surplus, non-teaching staff of Annamalai University (who had been appointed after 01.04.2003) during the agreement period shall be borne by the Government.*

** The employee appointed on agreement basis shall not be regarded as a member of the service in which the post to which he/she is appointed is included and shall not be entitled by reason only of such appointment to any preferential claim to any other appointment in that service or any other service.*

** In respect of any matter in respect of which no provision has been made in the agreement, the provision of*



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General Rules of the Tamil Nadu State and Subordinate Service shall apply.

** The Government have the rights to take disciplinary action against the employee for irregularities or lapses committed by them as per rules in force.*

** The employee is eligible for 12 days casual leave and 15 days EL per year during the period of his/her agreement. The employee is also eligible for 54 days ML for a period of three years.*

** The employee appointed shall not indulge in any activities detrimental to the Government's interest.*

** During the agreement period, the employee should not request for termination of agreement and reversion back to Annamalai University.*

** After the completion of tenure, the employee shall be reverted back to the Annamalai University.*

** The period of service rendered by the teaching staff of Annamalai University on agreement basis in Government Polytechnic Colleges & Special Institutions shall be counted for service benefits.”*

9. All the petitioners had signed in the agreement and joined in their respective post as Lecturer in Government Polytechnic Colleges and Special Institutions. After execution of agreement, they were issued with appointment order on 06.04.2023. Accordingly, they had joined in their respective colleges as Lecturer. As per the terms and conditions of the



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agreement, they will be reverted back to the second respondent University. The period of service rendered by them in the Government Polytechnic Colleges and the Special Institutions shall be counted for their respective service benefits. Further, the subject of Chemistry is also an allied subject in the Engineering Colleges as well as the Polytechnic Colleges. All the petitioners studied in the subject of Chemistry and they had knowledge of the subject Chemistry. Therefore, the apprehension of the petitioners cannot be accepted and all the petitioners having been accepted the appointment order and joined in their respective services, cannot seek for such a relief that restoration of their respective position, i.e., Associate Professor in Chemical Engineering.

10. That apart, the petitioners did not even challenge the Government Order in G.O.(D) No.106, Higher Education (H1) Department, dated 06.04.2023 and the proceedings of the third respondent dated 18.04.2023. Therefore, the representations of the petitioners were rightly rejected by the second respondent and this Court finds no infirmity or illegality in the order passed by the second respondent. Thus, the writ petition is devoid of merits and it is liable to be dismissed.

11. Accordingly, all these Writ Petitions stand dismissed. No



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Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
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To

1. The Secretary to Government,
Department of Higher Education,
Fort St.George,
Chennai – 600 009.

2. The Registrar,
Annamalai University,
Annamalai Nagar,
Chidambaram,
Cuddalore – 608 002.

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