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W.P.No.33223 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12/3/2024

C O R A M

THE HONOURABLE Dr. JUSTICE D. NAGARJUN

W.P.No.33223 of 2015

A N D

M.P.Nos.1, 2 of 2015, 22162 of 2018 and 4020 of 2024

R. Mangalam

...

Petitioner

Vs

1. The Chairman

Secretary to Government

Transport Department

Fort St. George

Chennai 600 009.

2. The Director

Institute of Road and Transport

Taramani

Chennai 600 113.

3. The Principal

Institute of Road and Transport Technology

Erode 638 316.

...

Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the second respondent in Letter No.4611/Uo.8/RTC/2015 dated 30/9/2015 and quash the same and consequently direct the first and second respondents



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to confer re-employment to the petitioner on reaching the age of superannuation on 30/9/2015 to till the end of the academic year i.e., till 31/5/2016.

For Petitioner	...	Mr.R.S.Anandan
For respondents	...	Mr.R.U.Dinesh Raj Kumar Additional Government Pleader for Mr.Vadivelu Deenadayalan for R.1
		No appearance for R.2
		Mr.Kala Ramesh for R.3.

ORDER

This writ petition is filed to quash the order dated 30/9/2015 passed by the second respondent in Letter No.4611/Uo.8/RTC/2015 and consequently direct the first and second respondents to confer re-employment to the petitioner from the date of reaching the age of superannuation on 30/9/2015 to till the end of the academic year i.e., till 31/5/2016.

2. The facts in brief which are necessary for the disposal of this writ



petition are that the petitioner was working as Associate Professor in the Institute of Road Transport Technology, Erode since 1986 and reached the age of superannuation on 30/6/2015 and retired from service after serving in 29 years and 9 months. She had submitted representation for re-employment till 31/5/2016 as Teaching staff are entitled to continue, the service even after retirement till the end of the academic year for the welfare of the students. But the first respondent has rejected on the ground of financial constraint of the Transport Department. The action of the first respondent is clearly against the interest of the students. Hence the instant writ petition.

3. The Director of the Institute of Road Transport, Taramani has filed the counter affidavit on behalf of the second and third respondents, wherein it is stated that earlier, services of some faculty members have been extended till the end of the academic year even after they have attained superannuation. Thereafter, due to financial constraints the services of any faculty member has not been extended.

4. Heard Mr.R.S.Anandan, learned counsel for the petitioner and Mr.N.Srinivasan, learned Additional Government Pleader for the respondents and perused the records including the translated copy of the



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impugned order, dated 30/9/2015 filed by the learned counsel for the petitioner on 8/3/2024.

5. The petitioner is seeking the relief of extending his service from 30/9/2015 until 31/5/2016 and the completion of the educational academic year solely on the ground that the Government has issued G.O.Ms.No.326 dated 10/2/1977, wherein the Government has instructed the Departments including the Teachers and Lecturers working in the Technical Departments that in case if the teaching staff of the Technical Educational Department attained the age of superannuation, the course of academic year, they shall be re-employed from the next day until last day of the month in which they attained the age of superannuation to 31st May of the year.

6. The petitioner who had been working as Associate Professor in the Institute of Road Transport Technology, Erode and has attained the age of superannuation on 30/6/2015. Prior to his retirement, he has submitted a representation dated 20/4/2015 to the Principal of the College and another representation to the Secretary of the Transport Department on 30/6/2015 requesting to extend her services until the end of the academic year 2015 – 2016. However, the respondents have failed to respond to the said



representations and no orders have been passed. Aggrieved by the same, the petitioner has approached this Court and filed W.P.No.30033 of 2015 and the same was disposed of on 23/9/2015 with a direction to the respondents to consider the representation of the petitioner on merits and dispose of the same. In pursuance of the directions of this Court, second respondent has passed the impugned order dated 30/9/2015 declining to consider the request of the petitioner on two grounds, viz., on account of financial exigency, the extension could not be given and secondly, the petitioner has approached the Institution belatedly.

7. In respect of second ground is concerned, the contention of the second respondent is incorrect on the face of it, as the petitioner has submitted two applications i.e., on 20/4/2015 and 30/6/2015 and since there was no response from the respondents, petitioner had approached this Court by way of W.P.No.30033 of 2015, which came to be disposed of on 23/9/2015. Therefore, the respondents cannot contend that the application filed by the petitioner belatedly thereby they could not consider the same.

8. The other ground is that on account of financial incapacity of the



respondent College, the extension could not be given. It is submitted by the learned counsel for the third respondent that the respondent College is being run by the employees of the Transport Department established for providing the educational facilities to the children of the employees working in the Road Transport Department and that the expenditure of the College will be borne by employees and the Government also gives the grant in aid.

9. It is submitted further that salaries being paid to the employees and Professors are also less when compared to the other Colleges of the Government and other private institutions. It is submitted further that during the year when the petitioner has made a request for extension of her service, there were financial constraints and thereby, services could not be extended.

10. Learned counsel appearing for the petitioner in the contrary has submitted that the respondent College has discriminated the petitioner from providing the extension and submitted a copy of the proceedings of the respondent, wherein service of one of the Professors by name Sathish Kumar, Associate Professor were extended on 13/6/2011. It is true that the respondent Institution has extended the services of Sathish Kumar upto the end of the academic year and the same has not been extended to the



petitioner. Though the impugned order stated that on account of financial exigencies, they could not extend the services, it is not clearly demonstrated that the financial condition of the first respondent was so bad that they cannot extend the services of the petitioner.

11. It is also submitted by the learned counsel for the third respondent that since the respondent Institution is being run by the employees, they are not bound by the Government Order No.326 which mandated the petitioner has not only quoted G.O.Ms.No.326 but also another G.O.Ms.No.95 dated 5/5/2010 which also speaks about extension of services of the Teaching staff until the completion of the financial year. On close scrutiny of G.O.Ms.No.326, dated 10/2/1977, it is not clear whether said G.O., applicable to the respondent Institution which is not the Government College and which is not an aided College except the fact that Government keeps on granting the same aid as and when required by the College.

12. Keeping this issue aside, one aspect that troubles is that the respondents if at all fair enough to decline the extension of the petitioner on the ground of financial constraints should have done that immediately when the application is filed. It is to be noted that the petitioner has filed two



applications as referred above, one on 20/4/2015 the other on 30/6/2015. He was due to retire by the end of September 2015. Since the request was made in writing by the petitioner well in advance, the respondent College should have informed in writing to the petitioner that they are not in a position to extend the services for whatever the reasons they feel like. By not giving the reply to the representations of the petitioner, they have driven the petitioner to approach this Court and file a writ petition and only after writ petition was allowed, directing to consider the representation, the second respondent has considered the representation of the petitioner that too one day prior to the retirement i.e., on 29/9/2015 and rejected. By way of keeping the applications pending, until last date of hearing, the respondents have created a situation where the petitioner will not be in a position to approach the Court for extension. This is because as per G.O.Ms.No.326, the extension has to be done from the next date of retirement. Thereby, the respondents have deliberately driven the petitioner to a situation where his services could not be extended. Therefore, this act of the respondents is highly deplorable and this Court, in fact thought of imposing certain costs on the respondents, however, restrained from doing so considering the fact that it is reported that the management which was there during the year when dispute arose has been changed and that the Government has taken over the



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College.

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13. Further, the petitioner has sought for extension of service for year 2015. This matter came up for disposal in the year 2024. Even if the writ petition is allowed, the petitioner who has attained the age of superannuation and who is now aged about 68 years will not be in a position to take up an assignment thereby technically, this writ petition has become infructuous.

14. In view of the discussion made above, this writ petition is dismissed as having become infructuous. No costs. In view of the above, no necessity arises for passing any orders in W.M.P.Nos.22162 of 2018 and 4020 of 2024 and hence, both of them are closed. Consequently, the connected Miscellaneous Petition Nos.1 and 2 of 2015 are also closed.

12/3/2024

mvs.

Index: Yes/No

NCC: Yes/No

Dr.D.NAGARJUN,J



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To
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Secretary to Government
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