



W.P.No.15454 of 2023 etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2024

CORAM:

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

W.P.Nos.15454, 15500, 15842, 15845, 15846, 15849, 15850, 15851,
15858 to 15863, 15865, 15877, 16557 & 25560 of 2023

and

W.M.P.Nos.15004, 15006, 15007, 15041, 15042, 15289 to 15294,
15296 to 15298, 15300 to 15304, 15306 to 15309, 15312, 15314,
15315, 15319 to 15325, 15327 to 15335, 15342, 15348, 15353, 15354,
15853, 15854, 24956 & 24957 of 2023

W.P.No.15454 of 2023:-

Dr.P.Rajmohan

...Petitioner

-Vs-

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

2. The Director of Collegiate Education,
Directorate of Collegiate Education,
No.577, Anna Salai, Saidapet,
Chennai – 600 015.

3. The Annamalai University,
Rep. by its Registrar (I/C),
Annamalai Nagar,
Chidambaram – 608 002

... Respondents

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



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of the second respondent dated 28.04.2023 having Ref. No. Na.Ka.No.6314/D5/2023 and the consequential order passed by the third respondent dated 30.04.2023 termed as University Order No.194/2023(C) and quash the same insofar as the name of the petitioner is included in Sl.No.23 of Annexure V of the proceedings dated 28.04.2023 issued by the second respondent and consequently direct the second and third respondents to permit the petitioner to work as Assistant Professor, Business Administration in Annamalai University, third respondent herein.

For Petitioner : Mrs.Nalaini Chidambaram,
Senior Counsel
For Ms.C.Uma

For Respondents
For R1 & R2 : Mrs.S.Anitha
Special Government Pleader

For R3 : Mr.J.Ravindran
Additional Advocate General
Assisted by Mr.E.C.Ramesh
Standing Counsel

COMMON ORDER

These writ petitions have been filed challenging the orders passed by the first respondent and the consequential orders passed by the second respondent, thereby transferred the petitioners from the third respondent viz., Annamalai University and posted them in difference posts in different colleges.



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2. The issues involved in all the writ petitions are one and the same and therefore, this Court is inclined to pass a common order in all the writ petitions.

3. The petitioners have been appointed as Assistant Professor in various departments in the third respondent university from 2000 to 2006. While being so, the first respondent had taken over the entire management of the third respondent in the year 2013, as per the Annamalai University Act 2013. It also provides that all appointment of officers, teachers and employees of the Annamalai University made before the date of the commencement of the Act shall be deemed to have been made under the Act and for the purpose of this Act, such officials shall continue to hold such posts in the third respondent university. Therefore, there is a statutory protection of the appointments of all teaching and non teaching staff.

4. Thereafter, the first respondent identified certain posts as surplus and in respect of certain posts, it was noticed that the incumbents did not possess the required qualifications. Insofar as the posts of Assistant Professors viz., the petitioners in various departments are



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concerned, the third respondent university had found many individuals did not possess the requisite qualification for the said post. Therefore, after considering the proposal of the Director of Collegiate Education, Chennai, the first respondent passed order in G.O.(D).No.99 Higher Education (H1) Department, dated 29.03.2023, whereby 92 teaching staff in various category in various discipline and 445 non-teaching staff in various category of the third respondent university were found surplus and they were allotted to the Director of Collegiate Education, Chennai, so as to appoint them in government arts and science colleges through redeployment on agreement basis for a period of three years, as per Section 19 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, on certain conditions. Subsequent to the said order, the petitioners were redeployed on agreement basis for the period of three years and transferred to the government arts and science colleges in various places. These orders have been challenged in the present writ petitions on various grounds.



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5. The learned Senior Counsel appearing for petitioners submitted that the petitioners were already holding the post of Associate Professors in the third respondent university. Whereas the impugned orders of transfer have been posted them as Assistant Professors in various colleges by de-promoting them. The Finance Committee of the third respondent university resolved that to consider the deputation of teaching and non-teaching staff as required by the government department based on their age, educational qualification. Further resolved that to approve the deputation of teaching and non-teaching staff as required by the government department on a last in first out basis subject to any specific requirements of the requesting departments.

5.1. However, the juniors who were joined after the petitioners are still in the third respondent university. The second respondent by pick and choose method, had chosen the petitioners alone and transfer to various colleges. It is clear violation of University Grants Commission's norms, since as per the UGC norms of Career Advancement Scheme, the petitioners are now working as Associate Professors and they have been sent to other institutions as Assistant Professors.



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6. The second respondent filed counter insofar as the non-teaching staff are concerned related to other writ petitions filed by the non-teaching staff. The learned Additional Advocate General submitted that instead of sending out the petitioners, on sympathetic ground and by giving consideration, the petitioners have been re-deployed by transferring them to other government colleges. Though they have been deputed as Assistant Professor, there is no difference on their pay band as Associate Professor and also given job protection. Further their rolls have been duly registered and maintained by the third respondent.

6.1. He further submitted that in respect of illegal and irregular appointment, the second respondent is now taking steps to initiate appropriate proceeding as against the illegal appointees. Further in view of the interim order granted by this Court in W.P.Nos.15454, 15500 and 25560 of 2023, the petitioners in that writ petitions are still working in the third respondent university. Insofar as the petitioners in other writ petitions are concerned, as per the order of transfer, they had joined in the respective transferred colleges.

7. Heard the learned counsel appearing on either side and perused the material placed before this Court.



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8. On perusal of the government order in G.O.(D)No.99 Higher Education (H1) Department, dated 29.03.2023 revealed that, due to the administrative mismanagement over the years and also appointment of excess staff, which resulted in severe financial burden in the third respondent university. Therefore, the government had repealed the Annamalai University Act, 1928 and enacted the Annamalai University Act, 2013, by which the third respondent university became a State University.

9. Accordingly, the first respondent appointed Administrator to administer and manage the third respondent university. After having been taken charge, the Administrator had recommended for re-deployment of surplus staff, revision of block grant, converting the university into affiliation type, take over of medical college and hospital by government and sanction of special financial package to improve the financial position of the third respondent university.

10. As recommended by the Administrator, the second respondent viz., the Directorate of Collegiate Education, Chennai,



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discussed with the third respondent university and decided to appoint 92 surplus teaching and 445 surplus non-teaching staff of the third respondent temporarily in the government arts and science colleges on agreement basis, as per the Section 19 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. Therefore, this Court finds no error or illegality in the order by the first respondent in G.O.(D) No.99 Higher Education (H1) Department, dated 29.03.2023. In pursuant to the said government order, the second respondent viz.,the Directorate of Collegiate Education, Chennai, passed subsequent orders thereby transferred the petitioners to various government arts and science colleges on agreement basis for the period of three years.

11. Considering the above facts and circumstances, insofar as the petitioners who had already joined in their respective transferred colleges, this Court is inclined to issue the following directions :-

(i) The respondents are directed to ensure that the petitioners pay band in the cadre of Associate Professor, and the same should be protected during the course of their deputation on agreement basis.

(ii) the respondents are directed to ensure that their seniority as per



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their original appointment and the same should be maintained during their deputation.

12. Insofar as the petitioners in W.P.Nos.15454, 15500 and 25560 of 2023, are concerned the impugned order of transfer has been stayed by this Court and it was not acted upon so far. Therefore, the subsequent order of transfer alone cannot be sustained and liable to be quashed. Accordingly, the subsequent orders dated 28.04.2023 and 06.07.2023 passed by the Directorate of Collegiate Education, Chennai, are hereby quashed. The second respondent viz., the Directorate of Collegiate Education, Chennai, is at liberty to pass a fresh order of transfer on agreement basis in the light of the UGC guidelines and resolution passed by the Finance Committee of the third respondent and as per their respective seniority.

13. With the above directions, all the Writ Petitions are disposed of. Consequently, connected miscellaneous petitions are closed. There shall be no orders as to costs.



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Index : Yes/No

Speaking/Non Speaking order

Neutral Citation : Yes/No

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