



W.A.No.3081 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2024

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR,

and

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.A.No.3081 of 2024

and

C.M.P No.23338 of 2024

Dr.Ra. Ramesh

... Appellant

Vs.

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

2. The Tamil Nadu Open University,
Rep. by its Registrar, Anna Salai,
Saidapet, Chennai 600 015.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent Act 1865, praying to set aside the order passed by this court in W.P.No.19872 of 2024 dated 16.07.2024.



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For the Appellant : Mr.P.Godson Swaminath
for M/S.Isaac Chambers
For the Respondents : Mr.D.Ravichaner,
Special Government Pleader.

JUDGMENT

(Order of the Court was made by D.KRISHNAKUMAR, J.)

Assailing the order passed by the learned single Judge in W.P.No.19872 of 2024, dated 16.07.2024, the writ petitioner has filed the present appeal.

2. According to the appellant/ writ petitioner, he has been working as Deputy Registrar in the second respondent and due to his health issues, he gave a letter dated 01.06.2023 requesting respondent to place his request for Voluntarily retirement before the Syndicate. It is further case of the appellant that, even though he made several representations, the second respondent was silent on his application for voluntary retirement.



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Subsequently, vide communication dated 30.08.2023, the second respondent informed the appellant that, while processing the application, certain remarks have been received from Administration, Finance & Audit and Examinations Sections and without getting clearance on those remarks, his application under voluntary retirement scheme could not be processed. Hence, he filed the writ petition seeking direction to the second respondent University to forthwith discharge the petitioner from Service, based on his application for voluntary retirement dated 01.06.2023. Learned Single Judge, observed that instead of challenging said communication dated 30.08.2023, the appellant has filed the writ petition and hence dismissed the writ petition, however granted liberty to the appellant to challenge the said rejection order dated 30.08.2023.

3. Learned counsel for the appellant submitted that the application filed by the appellant seeking voluntary retirement was rejected by the University for administrative findings that clearance has to be obtained on the remarks made by the concerned sections. Learned counsel further submitted that the procedure for getting remarks and obtaining clearance



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on the said remarks from the concerned sections are all coming under the administrative power of the University and hence, it is for the University to get the clearance from the concerned sections and to pass orders on the application submitted by the appellant seeking voluntary retirement. As such, it is contended by him that the application made by the appellant cannot be rejected by the University on the ground that without getting clearance on the remarks, application could not be processed. He also submitted that as per Rule 56(3)(e & f) of Tamil Nadu Fundamental Rights, the appellant is entitled to relieve from service on voluntarily retirement.

4. Mr.D.Ravichander, learned Special Government Pleader appearing for the respondents seeks time to get the clearance on the remarks from the concerned sections and to pass appropriate order on the application made by the appellant.

5. Considering the above submission made by the counsel on either side, we inclined to dispose of the writ appeal as follows.

i) The second respondent is directed to get the clearance on the



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remarks from the concerned sections within two weeks from the date of receipt of a copy of this order and pass appropriate orders on the application made by the appellant dated 16.07.2024, on its own merits and in accordance with law, within two weeks thereafter.

ii) Though it is contended by the learned counsel for the appellant that the appellant is entitled for voluntary retirement under Rule 56(3)(e & f) of Tamil Nadu Fundamental Rights, we are not inclined to go into the above aspect and it is for the respondent University to take appropriate decision in this regard.

6. Accordingly, this writ appeal is disposed of. There shall be no order as to costs. Connected CMP No.23338 of 2024 is closed.

(D.K.K.J.)

(P.B.B.J.)

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To

1. The Principal Secretary, State of Tamil Nadu
Department of Higher Education,
Fort St. George, Chennai 600 009.
2. The Registrar, Tamil Nadu Open University,
Anna Salai, Saidapet,
Chennai 600 015.



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