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W.A.No.3605 of 2024
IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :27.03.2025

Coram:

**THE HON'BLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HON'BLE MR.JUSTICE G.ARUL MURUGAN**

Writ Appeal No.3605 of 2024

and

Civil Miscellaneous Petition No.28200 of 2024

Annamalai University,
Rep.by its Registrar,
Annamalai Nagar,
Chidambaram 608 002
Cuddalore District.

.. Appellant/2nd Respondent

/versus/

1.Dr.R.Balamurugan,
Associate Professor,
Department of Civil Engineering,
Faculty of Engineering and Technology (FEAT),
Annamalai University,
Annamalai Nagar, Chidambaram,
Cuddalore District 608 002.

.. 1st Respondent/Petitioner

2.The Principal Secretary to Government,
Government of Tamil Nadu,
Department of Higher Education,
Secretariat, Chennai 600 009.

.. 2nd Respondent/1st
Respondent



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WEB COPY Writ Appeal has been filed under Clause 15 of Letters Patent praying to set aside the order dated 18.12.2023 made in W.P.No.16679 of 2021 on the file of this Hon'ble High Court of Judicature at Madras.

For Appellant :Mr.J.Ravindran, AAG Assisted by
Mr.Sithirai Anandam

For Respondents :Mr.S.Ramesh for R1
Mr.D.Ravichander, Spl.G.P.for R2

ORDER

(Order of the Court was made by R.Subramanian, J.)

Challenge is to the order of the Writ Court in and by which the learned Single Judge directed payment of salary to the first respondent for the period from 19.12.2017 to 03.07.2019. The first respondent, who was working as an Assistant Professor at the Appellant University, was redeployed to the College of Engineering, Thirukkuvalai, Nagapattinam District, which came under the control of Anna University, by an order dated 19.09.2017. The first respondent challenged the said re-deployment by way of a Writ Petition.



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2. The first Writ Petition filed by the first respondent in W.P.No.618

of 2018 came to be dismissed on technical grounds on 25.01.2018. He filed another Writ Petition in W.P.No.6175 of 2018 and on 20.06.2018, this Court passed the following directions:-

“4.Considering the aforesaid facts, this Court post the matter to 28.06.2018, with a direction to the respondents to take necessary instructions in this matter. However, in the meanwhile, if the 3rd respondent is satisfied of the fact that no post is available to accommodate the petitioner to where he has been directed to move, it may modifies the earlier order notwithstanding the pendency of the writ petition to allow the petitioner to continue to work in the place. But, the same should not be treated as a mandate of this Court.”

3. The petitioner, however, was accommodated. Again, the Writ Petition in W.P.No.6175 of 2018, came up on 16.08.2018 and this Court passed the following interim order:-

“4.Be that as it may, since no material has produced before this Court, indicating the fact that the Anna University has no post to accommodate the petitioner pursuant to the order of deputation, the ground on which the petitioner seeks his reversion to the Annamalai University without awaiting the counter affidavit of the said ground,



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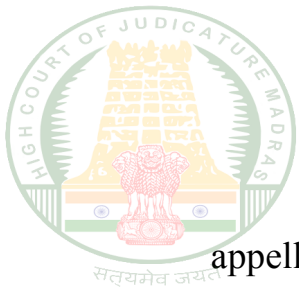


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this Court is unable to accept. However, the petitioner may join in the place in pursuant to the order of deputation, if so desired without prejudice to his claim challenging the aforesaid Government Order and the order of deputation, during pendency of the writ petition if he is not allowed to join by the second respondent in spite of his willing to join by the next date, he shall produce the material before this Court in this regard for reconsideration of his prayer made today. Counter affidavit in this regard shall also be filed by the Annamalai University so also, the Anna University by the next date positively.”

4. In the interregnum during pendency of the Writ Petition, the petitioner/first respondent herein had addressed a letter dated 07.03.2018 to the appellant-University claiming that, he should be permitted to work in the appellant-University itself. This was not considered. Again, the petitioner/first respondent herein wrote a letter on 10.09.2018 requesting that he should be allowed to work in the appellant-University itself. This was also not accepted.

5. However, the Writ Petition filed by the petitioner/first respondent herein came up for final hearing on 04.01.2019 and this Court directed the



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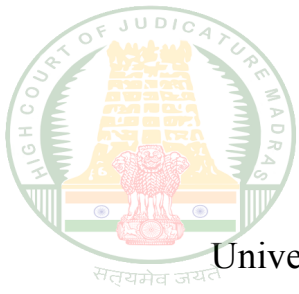
appellant-University to accommodate the petitioner in the appellant-

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University. This order was not challenged and it has become final. After that order, the first respondent was allowed to join in Annamalai University on 03.07.2019. Thereafter, the petitioner/first respondent herein came up with an instant Writ Petition seeking to regularise the service between 19.12.2017 and 03.07.2019 and the learned Single Judge had allowed the Writ Petition on the conclusion that the first respondent was allowed to join and therefore, he should be paid salary.

6. We, heard Mr.J.Ravindaran, learned Additional Advocate General appearing for the appellant; Mr.S.Ramesh, learned counsel appearing for the first respondent; and Mr.D.Ravichander, learned Special Government Pleader appearing for the second respondent.

7. The learned Additional Advocate General appearing for the appellant would submit that since the first respondent did not join the deputed post in the College of Engineering, Thirukkuvalai, which was under the control of the Anna University, another person was appointed by Anna



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University. Therefore, the deputed post was not vacant and there was also

no vacancy in the appellant University to accommodate the first respondent.

It is the responsibility of the first respondent to join the post to which he was deputed. While it was open to him to challenge the order of deputation, he cannot refuse to obey it and at the same time, claim salary.

8. Contending contra, the learned counsel appearing for the first respondent would submit that the first respondent made an offer to join the deputed post through his letters dated 07.03.2018 and 10.09.2018. Therefore, it cannot be said that he was not willing to work. This is a case where the first respondent was not allowed to work.

9. A perusal of these two letters, referred to by the learned counsel appearing for the first respondent would show that, the first respondent only expressed his willingness or claimed that he is willing to work at Annamalai University namely, the appellant University. He also made an offer to join Annamalai University. The very order of deputation was made because he was considered surplus at Annamalai University. He claims that he made an



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offer, which was not accepted. As seen from the order passed by this Court,

this Court was not inclined to stay the order of deputation. Therefore, it was the appellant, who should have joined the deputed station and if he chose not to join, he must to submit himself for the consequence.

10. We, therefore, find that this is not a case of non-employment. It is the case of unwillingness to work from 19.12.2017 to 04.01.2019. After 04.01.2019, the appellant University had taken six months to offer employment to the first respondent, which in our opinion is not justified. Even assuming that it took some time to obtain legal opinion and approval by the syndicate, the delay of 6 months cannot be condoned. While the claim of the appellant for salary for the period between 19.12.2017 and 03.07.2019, excluding any period of sanctioned leave, is bound to be rejected, the appellant should be paid salary at least from the date of the disposal of the writ petition namely, 04.01.2019, till 03.07.2019 the date of reinstatement.



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11. Therefore, this Writ Appeal is partly allowed, and the order of the Writ Court is modified to the effect that the first respondent would be entitled to salary for the period from 04.01.2019 to 03.07.2019. Needless to say that the first respondent will also be entitled to continuity of service during the above said period. Consequently, connected Miscellaneous Petition is closed. No costs.

[R.S.M.J.]

[G.A.M.J.]

27.03.2025

Index:no

Speaking order

Neutral citation:no

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To

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Associate Professor,
Department of Civil Engineering,
Faculty of Engineering and Technology (FEAT),
Annamalai University,
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2.The Principal Secretary to Government,
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