



W.A.(MD) No.338 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**W.A.(MD) No.338 of 2020
and
C.M.P.(MD) No.2302 of 2020**

- 1.The Director
National Institute of Technology
Tiruchirappalli
- 2.The Registrar
National Institute of Technology
Tiruchirappalli

... Appellants

-VS-

- 1.Dr.G.Thamaraiselvi
- 2.Union of India
rep.by its Secretary to Government
(Department of Higher Education)
Ministry of Human Resources Development
Shastri Bhavan, New Delhi
(As no relief is claimed against R2,
notice to R2 is given up)

... Respondents



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Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 11.02.2020, passed in W.P.(MD) No.2390 of 2019, on the file of this Court.

For Appellants : Ms.J.Maria Roseline

For Respondent : Mr.V.R.Shanmuganathan for R1
Mr.P.Subbiah
Central Govt. Senior Panel Counsel for R2

J U D G M E N T

[Judgment of the Court was made by S.M.SUBRAMANIAM, J.]

The present intra-court appeal has been instituted challenging the writ order dated 11.02.2020 passed in W.P.(MD) No.2390 of 2019.

2. The National Institute of Technology, Tiruchirappalli, is the appellant before this Court. The first respondent herein instituted the writ proceedings challenging the retirement order dated 02.01.2019, passed by the second appellant – Registrar of the National Institute of Technology.



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3. The respondent herein was admittedly holding the post of Librarian in the appellant – National Institute of Technology. On attaining the age of 62 years, she was allowed to retire from service and accordingly, a retirement order dated 02.01.2019, impugned in the writ petition, was issued.

4. The issues raised by the first respondent in the writ petition are as follows:

- (i) Whether the post of Librarian is a technical post or teaching post? and
- (ii) Whether the age of superannuation for the post of Librarian is 62 years or 65 years?

5. In respect of the above two issues, it is sufficient if the Act and the Rules applicable to the appellant - National Institute of Technology is considered.

6. The Writ Court mainly proceeded on the basis that the post of Librarian is a teaching post and therefore, the age of retirement for the said



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post is 65 years. Thus, the writ petition came to be allowed. Challenging the same, the National Institute of Technology is before this Court.

7. Let us now consider the National Institutes of Technology Act, 2007 (hereinafter, referred to as “NIT Act, 2007), which is applicable to the appellant – National Institute of Technology.

8. Section 26(1) of the NIT Act, 2007, reads as under:

“(1) The first Statutes of each Institute shall be framed by the Central Government with the prior approval of the Visitor and a copy of the same shall be laid as soon as may be before each House of Parliament. ”

9. In exercise of powers conferred by sub-section (1) of Section 26 of the NIT Act, 2007, the Central Government, with the prior approval of the Visitor, framed the first statute for all the National Institutes of Technology i.e., the NIT Act, 2007. The said Act and the Rules framed thereunder remain unchallenged. Thus, the Act and the Rules would be applicable to the employees, who were inducted as the employees of the National Institute of



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Technology.

10. Section 5(d) of the NIT Act, 2007, enumerates as follows:

“(d) every person employed by a society, immediately before such commencement shall hold his office or service in the corresponding Institute for the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held if this Act had not been passed, and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Statutes:

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the Institute in accordance with the terms of contract with the employee or, if no provision is made therein in this behalf, on payment to him by the Institute, of compensation equivalent to three months remuneration in the case of permanent employee and one months' remuneration in the case of other employee.”

11. In view of Section 5(d) and its proviso clause, the new statute



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framed in exercise of the power conferred under Section 26 of the NIT, 2007, is binding on all the employees inducted in the National Institute of Technology.

12. In the present case, though the first respondent was employed in the Regional Engineering College, Tiruchirappalli, she was inducted in the National Institute of Technology on commencement of the Act, 2007. Since Section 5(d) of the Act, 2007, has not been challenged, it is binding on the employees served in the National Institute of Technology.

13. The first statute for all the National Institutes of Technology notified by the Ministry of Human Resource Development *vide* Notification dated 23.04.2009, speaks about the status of the post of Librarian. Section 22 of the first statute speaks about classification of the members of the staff. Clause (ii) to sub-section (1) of Section 22 of the first statute reads as under:

“ii. Technical staff:- System Manager, System Analyst, Programmer, Librarian, Workshop Superintendent, Assistant Workshop Superintendent, Foreman, Technician, Instructor, Laboratory Assistant, Mechanic, Overseer, Technical Assistant, Draftsmen, and such other technical posts as may be decided by the Board from time to time; and”



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14. The age of retirement of the technical staff, as per the proceedings dated 16.09.2009, issued by the Ministry of Human Resource Department, Government of India, is admittedly 62 years. The said proceedings speak about the age of retirement for the post of Librarian as under:

“(5) The age of superannuation of Librarians, the cadre of Physical Education Personnel of Centrally Funded Technical Institutions (CFTIs); and Registrar and Finance Officer of IITs, IISERs, NITs, IISC, Bangalore and Deemed to be Universities, will be on par with UGC, and hence be fixed at 62 years, subject to their possessing the qualifications and experience as prescribed by UGC from time to time. The enhanced age of superannuation of 62 years will take effect from the date of issue of this Order.

15. Even the Ministry of Human Resource Development, Government of India, addressed a letter to the Secretary, University Grants Commission, on 31.12.2008, wherein, they have stated about the age of



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superannuation for the post of Librarian in Clause 8(f)(ii), which reads as under:

“(ii) Whereas the enhancement of the age of superannuation for teachers engaged in class room teaching is intended to attract eligible persons to be a career in teaching and to meet the shortage of teachers by retaining teachers in service for a longer period, and whereas there is no shortage in the categories of Librarians and Directors of Physical education, the increase in the age of superannuation from the present sixty two years shall not be available to the categories of Librarians and Directors of Physical Education.”

16. Though the learned counsel appearing for the first respondent would submit that the NIT Act, 2007, cannot have any retrospective effect so as to affect the retirement age of the first respondent, the fact remains that Section 5(d) of the NIT Act, 2007 has not been challenged by the first respondent, but she accepted the said provision and continued as Librarian in the National Institute of Technology till she attained the aged of 62 years. Having not challenged the the provisions of Section 5(d) of the Act, 2007, and not expressed her willingness to discontinue and to face termination, subsequently, she cannot turn around and say that the post of Librarian is to



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be treated as a teaching post and the age of retirement for the said post is to be considered as 65 years.

17. The learned Single Judge mainly considered the claim of the first respondent, on the ground that the NIT Act, 2007, cannot be applied retrospectively so as to infringe the service conditions of the first respondent. Secondly, the learned Single Judge has not at all considered the scope of Section 5 of the NIT Act, 2007. When Section 5 of the NIT Act, 2007, in unambiguous terms, states that the terms and conditions duly altered by the statute are binding on the employees, who are all inducted in the National Institute of Technology and if the alteration so made is not acceptable by an employee, such an employee may be terminated from service. The provisions of Section 5(d) of the first statute enacted in exercise of the power conferred under Section 26 of the NIT Act, 2007, are binding on all the employees of the National Institute of Technology and therefore, after discontinuing from the services of the National Institute of Technology, they cannot reprobate and thus, the very claim of the first respondent is running counter to the provisions of the NIT Act, 2007 and the First Statute framed by the Government of India.



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18. Since the Writ Court has not considered these two aspects, namely, Section 5 of the NIT Act, 2007 and the post of Librarian is the technical post, this Court is inclined to interfere with the order passed by the Writ Court.

19. Accordingly, this writ appeal is allowed and the writ order dated 11.02.2020 passed in W.P.(MD) No.2390 of 2019, is set aside. No costs. Consequently, connected miscellaneous petition is closed.

[S.M.S., J.]

[A.D.M.C., J.]

23.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:
The Secretary to Government,
(Department of Higher Education),

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Ministry of Human Resources Development,
Union of India,
Shastri Bhavan, New Delhi.



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