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Silan Tharakan S. vs the Director of Technical Education

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Court : Kerala

Decided On : Aug-14-2023

Judge : Honourable Mrs. Justice Anu Sivaraman

Appeal No. : WP(C)/36786/2017

Appellant : Silan Tharakan S.

Respondent : The Director of Technical Education

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN MONDAY, THE 14TH DAY OF AUGUST 2023 / 23RD SRAVANA, 1945 WP(C) NO. 36786 OF 2017 PETITIONER: SILAN THARAKAN S. LECTURER (MECHANICAL)THIAGARAJAR POLY TECHNIC COLLEGE,ALAGAPPA NAGAR, THRISSUR 680 302. BY ADVS. SRI.KURIAN GEORGE KANNANTHANAM (SR.) SRI.TONY GEORGE KANNANTHANAM RESPONDENTS:

1 THE DIRECTOR OF TECHNICAL EDUCATION THIRUVANANTHAPURAM 695 001. 2 THE JOINT DIRECTOR REGIONAL DIRECTORATE OF TECHNICAL

EDUCATION,KOTHAMANTALAM 686 681. 3 SENIOR JOINT DIRECTOR PS DIRECTORATE OF TECHNICAL EDUCATION,TRIVANDRUM 695 001. 4 THAIGARAJAR POLYTECHNIC COLLEGE ALAGAPPA NAGAR,THRISSUR 680 302REPRESENTED BY ITS CHAIRMAN 5 DENNY V.J DEMONSTRATOR, THIAGARAJAR POLY TECHNIC COLLEGE,ALAGAPPA NAGAR, TRICHUR 680 302. BY ADVS. GOVERNMENT PLEADER S.DILEEP SRI.M.P.ASHOK KUMAR SRI.M.P.ASHOK KUMAR GOVERNMENT PLEADER

OTHER PRESENT: GP SRI PREMCHAND K THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14.08.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C) NO. 36786 OF 2017 2

JUDGMENT

Dated this the 14th day of August, 2023 This writ petition is filed seeking the following reliefs:-

a) issue a writ of certiorari or other appropriate order or direction to quash Ext.P8 order which cancelled approval of appointment of petitioner. b) issue a writ of mandamus or other appropriate order or direction directing 2nd respondent to approve the appointment of petitioner as Lecturer Mechanical with effect from the date of appointment.

c) to issue a writ of mandamus or other appropriate order

or direction directing 2nd respondent to disburse the salary arrears of petitioner without any delay.

2. Heard the learned counsel for the petitioner and the learned Government Pleader.

3. It is submitted by the learned counsel for the petitioner that

the petitioner was appointed by direct recruitment to the post of Lecturer in Mechanical Engineering in the 4th respondent polytechnic college. It is submitted that the petitioners appointment was against a vacancy which arose on 31/5/2017 and that his appointment had been duly approved by Ext.P3 order. However, without any notice to the petitioner proceedings were WP(C) NO. 36786 OF 2017 3 issued by the 2nd respondent cancelling the approval already granted to the petitioners appointment. It is submitted that Ext.P8 would disclose that the approval was cancelled following directions of the Director of Technical Education by letter dated evident from Ext.P14 that it is only due to the pendency of WP(c) No.23197/2017 before this Court that directions had been issued to cancel the proposal.

4. The learned counsel for the petitioner submits that the said

writ petition had been entertained by this Court, but by Ext.P2, the interim order stay of appointment granted had been vacated. Thereafter, the writ petition was dismissed as withdrawn on appointments of persons who had been appointed after the petitioners appointment were approved and their probation declared as evidenced by Exts.P10 and P11.

5. A counter affidavit has been placed on record by the 2 nd

respondent stating that it was on account of the pendency of WP(c) No.23197/2017 and the directions given by the Director that Ext.P8 communication had been issued. WP(C) NO. 36786 OF 2017 4 Having considered the contentions advanced, I am of the opinion that the cancellation of the approval already granted, without notice to the petitioner and without any other reason except Ext.P14 was absolutely illegal. Exts.P8 and P14 are therefore set aside. The respondents shall consider the claim of the petitioner for all benefits of Ext.P3 approval for his appointment w.e.f 1/8/2017, taking note of the fact that the writ petition filed challenging his approval stands dismissed as withdrawn. Further proceedings with regard to declaration of probation shall also be taken in accordance with law. Sd/- ANU SIVARAMAN JUDGE ska WP(C) NO. 36786 OF

2017 5 APPENDIX OF WP(C) 36786/2017 PETITIONER EXHIBITS Exhibit P10 COPY OF ORDE3R NO.DPIII/1842/22/RDTEK DATED 8-11-2022 Exhibit P11 COPY OF ORDER NO.DPIII/416/23/RDTEK DATED 9- 6-2023 Exhibit P12 COPY OF ORDER NO.DPIII/1359/21/RDTEK DATED 7- 10-2022

Exhibit P13 COPY OF LETTER NO.C7/61/2019/491 DATED 2-8Exhibit P14 COPY OF LETTER NO. DP5/23869/17/D.T.E. DATED 26-10-2017 Exhibit P15 COPY OF APPOINTMENT ORDER NO.C7/61/2017/397 DATED 1-8-2017 Exhibit P16 COPY OF ORDER NO.DP3/1383/ 2016 DATED 22-9EXHIBIT P1 TRUE COPY OF THE ADVERTISEMENT INVITING

APPLICTIONS DATED 3/5/2017 APPEARED IN THE MALAYALA MANORAMA DAILY EXHIBIT P8 TRUE COPY OF THE ORDER DATED 1/11/2017 ISSUED BY THE 2ND RESPONDENT EXHIBIT P2 TRUE COPY OF THE ORDER DATED 25/7/2017 IN WPC NO.23197/17 OF HON.COURT EXHIBIT P3 TRUE COPY OF THE ORDER DATED 22/9/2017 ISSUED BY THE 2ND RESPONDENT EXHIBIT P4 TRUE COPY OF THE MINUTES OF THE STAFF SELECTION COMMITTEE OF THE COLLEGE EXHIBIT P5 TRUE COPY OF THE ORDER DATED 6/6/1975 OF HIGHER EDN. (D) DEPARTMENT EXHIBIT P6 TRUE COPY OF THE NOTIFICATION DATED 8/11/2010 OF THE HIGHER EDN.(L) DEPARTMENT EXHIBIT P7 TRUE COPY OF THE CIRCULAR DATED 18/4/2015 ISSUED BY THE 1ST RESPONDENT EXHIBIT P9 TRUE COPY OF THE MINUTES OF THE GOVERNING COUNCIL MEETING HELD IN THE CONFERENCE HALL OF THE POLYTECHNIC COLLEGE ON 17/4/2017

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