

The Controller of Examination. Vs. P.Muralitharan and ors.

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Court : Chennai

Decided On : Jul-05-2012

Judge : R.Banumathi; B.Rajendran, Jj.

Acts : Letters Patent Act - Clause 15

Appeal No. : WRIT APPEAL (MD)No.335 of 2012 and M.P.(MD)No.1 of 2012

Appellant : The Controller of Examination

Respondent : N.W.Fathimaa Sanam and ors.

Advocate for Def. : Mr.C.Venkatesh Kumar, Adv.

Advocate for Pet/Ap. : Mr.R.Sakthi Krishnan, Adv.

Judgement :

PRAYER Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 14.02.2012 passed in W.P.(MD)No.13323 of 2011 on the file of this Court.

R.BANUMATHI, J

1. Being aggrieved by the order dated 14.2.2012 passed in W.P.(MD)No.13323 of 2011 quashing the proceedings of the appellant in Memo Ref.AUTT/COE/2011/132 dated 07.10.2011 and consequently, directing the appellant university to issue examination Mark Sheet for IV Semester and

Provisional Certificate to the first respondent herein, the appellant has preferred this appeal.

2. In the said Writ Petition, the contention of the writ petitioner/first respondent herein is that she completed Diploma in Instrumentation and Control Engineering (I.C.E) in the year 2006 and she passed B.E. (Computer Science and Engineering) in the year 2009. Thereafter, she joined M.E. (Computer Science Engineering) full time course in Jeyaram College of Engineering and Technology, Karattampatti and that she successfully completed her M.E. Course in June, 2011. Further contention of the writ petitioner/first respondent is that while she was undergoing M.E. Degree Course, she attended interview on 5.12.2010 at the third respondent college for the post of Lecturer in the Department of Computer Science and Engineering and after interview, she was not intimated about the result by the third respondent college and thereafter, she was under the impression that she was not selected to the said post.

3. That being the position, the appellant issued proceedings dated 15.9.2011 calling upon her to appear before the enquiry committee on 21.9.2011. The first respondent appeared before the appellant and submitted her explanation stating that she was not working in the third respondent college while doing M.E. Degree Course. After enquiry, the appellant issued proceedings dated 7.10.2011 to the effect that the writ petitioner/first respondent pursued her I to IV Semester M.E. (Computer Science Engineering) in full time programme at the second respondent college while simultaneously working as full time Faculty Member at the third respondent college in violation of the rules and regulations of the University. Therefore, by the impugned proceedings dated 7.10.2011, the appellant University changed the first respondent's full time enrollment to part time mode and duration of the study was extended for two more semesters and observed that the certificate will be issued after completion of the academic year 2012-13. Challenging the said proceedings, the first respondent filed the Writ Petition seeking to quash the same and also to direct the appellant University to issue Mark Sheet for the IV Semester and Provisional Certificate.

4. In the Writ Court, the appellant University filed counter affidavit contending that several persons were employed as teaching faculty in the affiliated colleges undergoing full time regular M.E.Course at various institutions which is prohibited as per the regulation of the University. Therefore, a committee was constituted to go into the matter for verification of enrollment of full time M.E. Degree Course. On verification, the committee found that the first respondent enrolled in the second respondent college for full time M.E. Degree Course and, at the same time, her name was shown as Faculty Member for Computer Science and Engineering in the third respondent College.

5. Upon consideration of the rival contentions, the learned Judge held that though the application submitted by the third respondent college seeking affiliation for the academic year 2011-2012 stated that the first respondent was identified as Faculty for the forthcoming academic year, the first respondent has not joined duty and not worked with the third respondent college at any point of time. It was further held that once it is proved that the first respondent was not employed at the third respondent college by more particularly while doing her full time M.E. Degree Course at the second respondent college, the appellant University is not justified in passing the impugned order. On those findings, the learned Judge quashed the impugned proceedings of the appellant University and allowed the Writ Petition and directed the appellant University to issue Examination Mark Sheet for the IV Semester and Provisional Certificate to the writ petitioner/first respondent.

6. We have heard the learned counsel appearing for the appellant University, Mr.R.Sakthi Krishnan, and the learned counsel appearing for the first respondent, Mr.C.Venkatesh Kumar, and perused the materials available on record.

7. Learned counsel appearing for Anna University contended that candidates who joined Full Time M.E.Degree Course should be available on full time basis in the concerned college and while so, it was not open to them to work elsewhere either in the evening or on holidays. Learned counsel would further submit that the learned Judge failed to note that the third respondent college submitted an application to Anna University seeking affiliation for the academic year 2010- 2011 wherein it had stated that the writ petitioner named N.W. Fathimaa Sanam is one

of the Lecturer in Computer Science and Engineering. It was further submitted that on enquiry, the committee took into account the information furnished by SMR East Coast College of Engineering and Technology, Somanathapattinam in their application for affiliation submitted to the University and the said information being furnished prior to the conduct of the enquiry, the first respondent is not correct in saying that she was not working at that point of time. The learned counsel would further submit that the University regulation stipulates that the candidates admitted under Full Time Course should be available in the College during working hours for curricular, co-curricular and extra curricular activities and consequently, candidates who enrolled as Full Time Student were not entitled to work as Full Time Faculty Member simultaneously.

8. Learned counsel for the writ petitioner/first respondent contended that the writ petitioner/first respondent has not worked in the third respondent college as full time Faculty Member and University failed to consider the Attendance Certificate issued by the second respondent college certifying that she was pursuing her Full Time M.E.(Computer Science and Engineering). Learned counsel relying upon the letter issued by the third respondent college stated that the first respondent has not worked as Faculty Member in another college while pursuing Full Time M.E.(Computer Science and Engineering) and non- consideration of the same is bad in the eye of law and therefore the learned Judge rightly quashed the impugned proceedings and issued direction to the University to issue IV Semester Mark Sheet and Provisional Certificate.

9. The point falling for consideration is whether it was permissible for students admitted in full time Post Graduation Course in Engineering to work as Full Time Faculty Members in other Engineering Colleges and whether the appellant University was right in extending the duration of the course converting the full time course as part time mode?

10. Clause 2.1 of the University Regulations deals with Full time Course and the same reads as under:-

"Candidates admitted under "Full Time" should be available in the College/Institution/University during the complete working hours (From Morning to

Evening on full time basis) for curricular, co-curricular and extra- curricular activities assigned to them.

The Full-time candidate should not attend any other full time programme(s)/course(s) or take up any Full Time job/part time job in any institution or company during the period of the Full Time Programme. Violation of above Rules will result in the cancellation of admission to the P.G.Programme."

11. Clause 9 of the University Regulations deals with requirements for completion of a Semester and the same reads as under:-

"9.1 Ideally every student is expected to attend all classes and secure 100% attendance. However, in order to allow for certain unavoidable reasons such as medical/Participation in Sports/Personal, the student is expected to attend at least 75% of the Classes."

By perusal of the above regulation, it is seen that a student pursuing M.E/M.Tech Full Time Course would not be able to undertake any other avocation simultaneously. A candidate simultaneously pursuing Full Time P.G.Course, while being employed as a teaching faculty would not be able to adhere to the prescription in the Rules and Regulation of the University.

12. The appellant received a number of complaints regarding Faculty Members enrolled as Full Time Post Graduate Students simultaneously working in colleges as Faculty. A committee was constituted and thorough investigation was done and based on the reports submitted by the investigation committee for the continuity of the affiliation, along with list of students enrolled for the prescribed programme, students were also asked to give their explanation along with the relevant documents before the enquiry committee. In the enquiry, the committee found a number of students who joined Full Time PG Course simultaneously joined as Faculty. Having noticed irregularities, the committee suggested the following:- "The full time enrollment of those candidates, who are also working as regular faculty simultaneously, shall be converted to part-time enrollment, as per the regulations of the University. Accordingly, For the candidates studying in the IV Semester their period of study will be extended for two more semesters and the

total duration will be 2009 - 2012. For the candidates studying in the second semester their period of study will be extended for two more semesters and the total duration will be 2010-2013. Based on the above suggestion of the committee, proceedings dated 7.10.2011 was issued changing the Full Time enrollment of the first respondent to Part Time mode and extended the duration of the study for two more semesters informing that her study certificates will be issued after completion of the academic.

13. The contention of the writ petitioner/first respondent is that she attended the interview on 5.12.2010 for the post of Lecturer in the third respondent SRM East Coast College of Engineering and Technology, Somanathapattinam and that she was not intimated of her selection. Further case of the first respondent is that she has not joined duty in the third respondent college and to that effect it has issued certificate and the University failed to peruse the said letter issued by the third respondent college. In its letter, even though the third respondent college has stated that the first respondent has not joined as Faculty Member, while giving the list of Faculty Members in respect of Computer Science and Engineering in its application for affiliation, the name of the first respondent has been mentioned as follows:-

Sl.No	Name	Department	Designa- tion	Date of birth	Qualification
13	Ms.Fathimaasanam	NW Computer Engineering	Science Lecturer	04.02.88	B.E. & I Class

In programmewise evaluation for C.S.E, the previous experience of the Assistant Professors has been stated as 0 - 1 year. As rightly contended by the learned counsel for the appellant University, the application seeking affiliation for the academic year 2010-11, was given to the University prior to the conduct of enquiry. Subsequent explanation of the third respondent college stating that the writ petitioner/first respondent was not working with them appears to be an after thought.

14. Learned counsel for 1st respondent has contended that in the application for affiliation, name of 1st respondent is not shown as the "Faculty Member", but only stated as "candidates identified for the forthcoming academic year - 2011-2012 in various Departments" and therefore 1st respondent cannot be said to have worked

in 3rd respondent College. The learned counsel has further submitted that 3rd respondent College misused the certificates produced by the 1st respondent at the time of her interview and accepting the stand of 1st respondent Writ Court rightly directed the University to issue the mark sheet.

15. Even though the stand of 1st respondent that in the application for affiliation submitted by 3rd respondent, name of 1st respondent has been stated as faculty identified for the forthcoming academic year was accepted by the writ Court, the said argument cannot be countenanced for the reasons: (i) in the application for affiliation, while showing the 1st respondent as "Faculty for CSE", her experience has been shown as 0-1 year, which indicates that 1st respondent was previously working in the said College; (ii) though 1st respondent alleges that 3rd respondent has misused certificates she had not taken any steps against the 3rd respondent College and (iii) mention of name of 1st respondent as "Faculty for CSE with experience 0-1 year" clearly indicates she worked as Faculty in 3rd respondent College simultaneously when she registered as a Full Time Post Graduate Course in 2nd respondent College.

16. The first respondent joined Full Time M.E.Degree Course in the second respondent Jeyaram College of Engineering and Technology at Karattampatti, Thuraiyur Taluk. Simultaneously, she was working as Faculty in the third respondent SRM East Coast College of Engineering and Technology, Somanathapattinam, Peravurani Taluk, Thanjavur District, which is at a distance of about 75 - 80 KM away from Trichy. The first respondent would not have attended the college. Students who are admitted for Full Time Course must be actually available in the college and they should satisfy the attendance requirement. Clause 2.1 of the P.G.Programme Regulations for 2005 stipulates that candidates admitted under "Full Time" should be available in the College during the complete working hours (from Morning to Evening on full time basis) for curricular, co-curricular and extra-curricular activities assigned to them. Consequently, full time students of P.G.Course is not entitled to work as Full Time Faculty. The writ petitioner/first respondent herein committed serious violation of the regulation which results in dilution of the academic standards and erosion of academic discipline. 17. In similar factual situation in Anna University, Madras, where

number of students admitted under Full Time study for Post Graduation Course in Engineering, simultaneously working as Full Time Faculty, considering the question in W.A.Nos.1553 of 2010 (Batch cases), by common Judgment dated 2.12.2010, Division Bench of this Court held as under:-

"23. The part time - day time course and part time - evening course were designed for candidates, who were working elsewhere. Such courses were introduced with a view to help the employed personnel. However, they should undergo six semesters, extending to three years. Full time course contains four semesters extended to two years. Therefore, the primary difference between these two courses would give a clear idea that full time course was intended only for day time scholars. ...

26. The term "Full time" implies occupying the whole of the time, whereas "part time" denotes part of the usual working day. Therefore, the very term "Full Time" indicates that a full timer should be available in the institution during the complete working hours. It is available in the institution during the complete working hours. It is not possible for a full time employee to undergo a full time regular course, as it would be difficult for him to attend the classes regularly on a full time basis. There is no question of a regular employee attending the regular full time classes elsewhere. Even in the same city, it would be impossible. In such cases, the candidate has to choose either employment or education. In case, the faculty members or other employees are permitted to attend regular colleges it would undermine the standard of education. Therefore, there is nothing wrong in the decision of the University that students who have undergone the full time course while simultaneously working as full time faculty members would not be permitted to appear for the semester examination or to enter the next semester."

27. This Court is concerned only with the decision making process. In matters like this, the role of the Court is very limited. Anna University Act and the Regulations gives authority to the University to permit students to appear for the examination on fulfilling certain conditions. It is for the University to decide as to whether such mandatory conditions were satisfied by the respective candidates. The University appointed an expert committee and collected materials and it was only on the

basis of such materials, a decision was arrived at to punish the appellants. The learned single Judge has considered the entire materials and arrived at a correct conclusion."

18. The above judgment was challenged in Supreme Court in SLP No.1051/2011 and the same was also dismissed. The ratio of the above decision squarely apply to the facts on hand. The University appointed an Expert Committee and collected materials and it was only on the basis of such materials and serious violations, decision was arrived at for converting full time course into part time mode and extended the duration of study by two more semesters. Writ Court was not right in brushing aside the serious violations committed and therefore, the order under challenge in this Writ Appeal cannot be sustained.

19. In the result, the order dated 14.2.2012 passed in W.P.(MD)No.13323 of 2011 is set aside and the Writ Appeal is allowed. No costs. Connected Miscellaneous Petition is closed.

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