

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.30867 of 2015
and
M.P.Nos.1 & 2 of 2015

S.Baskaran

.. Petitioner

- Vs -

1. Bharathiyar University,
rep. by The Vice Chancellor,
Bharathiyar University,
Coimbatore - 641 046.

2. The Registrar,
Bharathiyar University,
Coimbatore - 641 046.

.. Respondents

Prayer:- Writ Petition has been filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records on the file of the first respondent in connection with the order passed by the 2nd respondent in operation of the order passed by the 2nd respondent in his proceedings in Official Memorandum No.RR/Suspension/2015 dated 04.09.2015 and received on 07.09.2015 and quash the same and direct the respondent to regularise the period of suspension.

For Petitioner : Mr.Jagadeesan V.S.

For Respondents: Mr.STS.Moorthy

O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner while serving as Assistant Section Officer at Bharathiar University, Coimbatore was orally asked to attend an enquiry without informing any details on 25.08.2015 and accordingly he attended the enquiry and there he came to know that the enquiry was conducted regarding disposal of old answer papers and the petitioner has submitted his explanation before the Enquiry Committee that the date of incident i.e. 01.08.2015, being a Saturday and also University holiday he did not attended office and therefore he is not aware of the same. The petitioner was again called for the enquiry and accordingly he attended the enquiry

once again on 04.09.2015 and was shocked and surprised to receive the impugned order of suspension on 07.09.2015 passed by the second respondent on the orders of the Vice Chancellor of the first respondent University. Challenging the legality of the same, the petitioner has come forward to file this writ petition.

3. The learned counsel appearing for the petitioner would submit that as per the Statute of the Bharathiar University under Section 14(2) (a) the Registrar shall have power to take disciplinary action against such of the employees, excluding teachers of the University and academic staff, as may be specified in the orders of the Syndicate and to suspend them pending enquiry, to administer warnings to them or to impose on them the penalty of censure or withholding of increments; provided that no such penalty shall be imposed unless the person concerned has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him and sub-clause (b) provides for an appeal to the Vice Chancellor against any order of the Registrar imposing any of the penalties specified in clause (a) and in the light of the said proviso before passing the punishment of suspension, an opportunity of hearing has to be afforded to him and it has not been done. So far as the merits of the case is concerned, the learned counsel would submit that the petitioner is only an Assistant Section Officer and the decision has been taken at the higher level to dispose of the old scrap papers through the services of M/s. Salem District Co-operative Printing Works Ltd., Salem and admittedly the date of the incident, being an holiday, the petitioner did not attend office and he has nothing to do with the said incident and hence prays for appropriate orders.

4. Per contra Mr.STS.Moorthy, learned standing counsel appearing for the respondents would contend that even as per the Statute and as pointed out by the learned counsel appearing for the petitioner, the Registrar has got power to place the petitioner under suspension and only after conducting enquiry on two days, fair and proper decision has been taken placing the petitioner under suspension and if the petitioner wants review/revoke the order of suspension, it is open to him to do so by submitting a representation to the concerned authority for passing appropriate orders.

5. The Court has carefully considered the rival submissions and perused the materials placed before it.

6. A perusal of the impugned order would disclose that by referring to the note order of the Vice Chancellor of the first respondent University dated 14.07.2015, the Registrar has signed the impugned order based on the orders of the Vice Chancellor. As per the provisions of the above Statute, the Vice Chancellor has been designated as the Appellate Authority. But in the light of the facts and circumstances, since in my considered opinion, the impugned order has been passed on the instructions from the Vice Chancellor of the first respondent University, no purpose will be served on permitting the petitioner to submit an appeal petition to the Vice Chancellor and instead this Court is of the

opinion that the petitioner may be permitted to submit a representation to the Syndicate of the first respondent University for revoking / reviewing the order of suspension and the Syndicate may be directed to pass orders on the said representation of the petitioner within a stipulated time frame.

7. In the result, the writ petition is disposed of permitting the petitioner to submit a representation to the Syndicate of the first respondent University for reviewing / revoking the order of suspension within a period of one week from the date of receipt of a copy of this order and the Syndicate on receipt of the same, is directed to consider the said representation submitted by the petitioner on merits and in accordance with law and pass orders within a period of four weeks thereafter and communicate the decision taken to the petitioner. The writ petition is disposed of accordingly. Consequently, the connected miscellaneous petitions are closed. No costs.
kk

Sd/-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

1. The Vice Chancellor,
Bharathiyar University,
Coimbatore - 641 046.
2. The Registrar,
Bharathiyar University,
Coimbatore - 641 046.

+1 C.C. to MR.V.S.Jagadeesan, Advocate in Sr.No.53916

+1 C.C. to. MR.S.T.S.Murthi, Advocate in Sr.54155

W.P.No.30867 of 2015
and M.P.Nos.1 & 2 of 2015

PA(CO)
sd : 08/10/2015