

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.A.Nos.1609 to 1612 of 2015
and
M.P.Nos.1,1,1 and 1 of 2015

1. The Director
Central Institute of Classical Tamil
IRT Campus, 100 Ft.Road
Taramani, Chennai 600 113.
2. The Registrar
Central Institute of Classical Tamil
IRT Campus, 100 Ft.Road
Taramani, Chennai 600 113. ... Appellants in all the WAs./
Respondents 2 & 3
/Respondents 2 & 3

Versus

1. Dr.P.Raja
.. 1st respondent in
W.A.No.1609 of 2015
/Respondent
/Petitioner
/Petitioner
- S.Nagooramal
.. 1st respondent in
W.A.No.1610 of 2015
/Respondent
/Petitioner
/Petitioner

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Dr.T.Poovaisubramanian

.. 1st respondent in
W.A.No.1611 of 2015
/Respondent
/Petitioner
/Petitioner

V.Gayatri

.. 1st respondent in
W.A.No.1612 of 2015
/Respondent
/Petitioner
/Petitioner

2. The Union of India
rep.by Secretary
Ministry of Human Resource Development
Shastri Bhawan, New Delhi 110 015.

3. V.G.Bhooma

4. Dr.M.Muthuvelu

.. Respondents 2 to 4 in
all the W.As./Respondents
1,4 & 5/Respondents 1,4 5
in
W.A.1609/15 to 1612/15

Prayer in W.A.1609 to W.A 1612/15:

Appeals filed under Clause 15 of Letters Patent against
the interim order dated 7/10/2015 in M.P.No.3,3,3,3/15 in
M.P.Nos.2,2,2,2/15 in W.P.Nos.12785/15 to W.P.12788/15.

M.P.Nos.3,3,3,3/15:

Petitions under Article 226 of the Constitution of India,
praying this Court to vacate the interim stay granted on
28/4/2015 in M.P.2/15, 2/15,2/15, 2/15, in W.P.Nos.12785/15 to
W.P.12788/15

M.P.Nos.2,2,2,2/15:

Petitions under Article 226 of the Constitution of India
praying this Court to grant stay of operation of and all further
Proceedings in pursuant to the impugned order in F.No.11-
264/CICT/2014-15 dated 28/5/14 issued by the 2nd respondent and
the impugned charge Memo in F.No.11-264/CICT/2014-2015 dated
9/3/15 issued by the 3rd respondent and F.No.11-264/CICT/2014-15
dated 31.3.2015 issued by the 2nd respondent herein pending
disposal of W.P.No.12785 to 12788/15.

W.P.No.12785 to 12788 of 2015:

Petitions under Article 226 of the Constitution of India praying this Court to call for the records in impugned the order in F.No. 11 - 264 / CICT / 2014-15 dated 28.05.2014 issued by the 2nd Respondent and the impugned charge memo in F.No.11 - 264/ CICT / 2014-2015 dated on 09.03.2015 issued by the 3rd Respondent and F.No. 11 - 264/ CICT / 2014-15 Dated on 31.03.2015 issued by the 2nd Respondent herein and quash the same and consequently direct the 2nd Respondent to extend the services of the petitioner to the post of junior Research Officer in the 2nd Respondent institution.

For Appellants : Mr.Karthik Rajan
in all W.As.

For Respondents : Mr.N.G.R.Prasad
in all W.As. for Mr.T.Sundaravadanam for R1
in all W.As.
Mr.Su.Srinivasan
Assistant Solicitor General
for R2 in all W.As.

COMMON JUDGMENT

(Judgment of the Court was delivered by Huluvadi G.Ramesh,J.,)

These writ appeals have been filed, challenging the order dated 07.10.2015 passed by the learned Single Judge in rejecting the prayer of the appellants to vacate the stay granted as against the first respondents in all these writ appeals in M.P.Nos.2 and 3 of 2015 in W.P.Nos.12785 to 12788 of 2015.

2. The case in brief is as follows:

(i) The writ petitioners/first respondents, in these writ appeals, were engaged as Junior Resource Persons in the Central Institute of Classical Tamil, Chennai for a period of one year from 07.04.2014 to 31.03.2015 by the Registrar of the Central Institute of Classical Tamil on contract basis. While so, they were issued with a charge memo dated 09.03.2015 alleging that they have committed misconduct by violating Clause 7(c) of the Code of Conduct, which stipulates that no contractual employee shall participate in any demonstration or protest against the institute without prior permission and explanation also were called for. The writ petitioners/first respondents in these writ appeals submitted their explanation stating that they did

not participate in the protest but they were only present in the said place as spectators. However, without satisfying with the explanation submitted by the writ petitioners/first respondents in these writ appeals, as the Enquiry Officer has held that the charges framed against them were proved, the Management did not extend their tenure beyond 31.03.2015 and they were not also given employment thereafter.

(ii) Hence, the writ petitioners/first respondents in these writ appeals, filed writ petitions seeking to quash the charge memos issued against them and also the constitution of the Enquiry Committee and the order passed by the first appellant herein dated 31.03.2015 enclosing the proceedings of the Enquiry Committee.

(iii) Learned Single Judge, while admitting the writ petitions, granted an ex parte interim order granting interim stay of the order passed by the first appellant herein on 28.04.2015 by stating thus:

"The impugned orders are passed refusing to extend the tenure of service based on misconduct. It is a different matter if the tenure is not extended on its expiry, but based on certain misconduct the employment is sought to be terminated. Hence, there shall be an order of interim stay."

(iv) Aggrieved by the said order, the appellants herein filed vacate stay petitions to vacate the interim order granted by this Court; whereas the writ petitioners/first respondents herein filed contempt petitions for non-compliance of the order passed by this Court.

(v) Both the petitions were taken up together for hearing and the learned Single Judge vide order dated 07.10.2015 explaining the reasons stated by the appellants herein that only because of the misconduct of the writ petitioners/first respondents herein, they were not considered for extension of their tenure beyond 31.03.2015, made the interim order of stay granted absolute and dismissed the vacate stay petitions filed by the appellants. Further, the learned Single Judge had directed the appellants herein to comply with the order passed by this Court dated 28.04.2015.

(vi) Aggrieved by the said order, the appellants are before this Court in these writ appeals.

3. Learned counsel appearing for the appellants submitted that the writ petitioners/first respondents were appointed only on a contractual basis and they are governed by certain terms and conditions. Since one of the conditions as per the

appointment order have not been complied with by the writ petitioners/first respondents herein, their services were not extended beyond 31.03.2015. He further submitted that the writ petitioners did not co-operate with the Enquiry Officer for proper conduct of the enquiry proceedings. Accordingly, he prayed for setting aside the interim order of stay passed by the learned Single Judge.

4. Per contra, the learned counsel appearing for the writ petitioners/first respondents herein submitted that even though this Court has passed an interim order of stay as early as 28.04.2015 and the same was also made absolute vide order dated 07.10.2015, till date they were without employment and not even the salaries were paid to them. He further submitted that the Director, who had passed such an order is not a permanent Director and he is holding the said post only as an in-charge. Therefore, he submitted that the writ petitioners/first respondents herein were victimized by the action of the appellants. Accordingly, he prayed for the dismissal of the writ appeals.

5. We have heard the learned counsel representing the respective parties.

6. On a perusal of the impugned order, it is seen that the Single Judge has held that the services of the writ petitioners/first respondents herein were not extended beyond 31.03.2015 only on the ground that they have participated in the demonstration conducted by a political party against the appellants herein and except the same no other allegation is made against them. Further, it is seen in para No.24 of the impugned order, the learned Single Judge had stated that the appellants have not examined any witnesses nor marked any documents in order to prove proper conduct of the enquiry. The relevant portion reads as follows:

"22. Learned counsel appearing for the respondents 2 and 3 has fairly submitted that no witnesses were examined and no documents were marked." Further, as per the interim order granted by this Court, the writ petitioners/first respondents herein were neither taken back into service nor salaries have been paid to them till date.

7. In the facts and circumstances of the case, we are of the view that the writ petitioners/first respondents herein have to subject themselves to the enquiry without seeking any adjournment. Further the appellants are also directed to conduct the enquiry proceedings in accordance with law by examining witnesses and marking documents to prove the allegation made against the writ petitioners/first respondents herein.

8. Though this Court is not inclined to set aside the interim order passed by the learned Single Judge as the same will be dealt with at the time of hearing the main writ petitions and also without going into the merits of the matter, however, in slight modification of the same, the following order is passed:

The appellants are directed to re-open the enquiry, in accordance with law, to bring out the irregularities alleged against the writ petitioners/first respondents herein by examining witnesses and by marking documents. It is further directed that the writ petitioners/first respondents herein shall co-operate with the pending enquiry proceedings in order to conclude the same within a stipulated time. It is also directed that the appellants, after giving sufficient opportunity of hearing to the writ petitioners/first respondents herein, shall conclude the enquiry proceedings within a period of three months from the date of receipt of a copy of this order. Till such time, the enquiry proceedings are concluded, the appellants are directed to pay 50% of the back wages to the writ petitioners/first respondents herein as they are being without any salary for the past more than one year. Inasmuch as we have prescribed an outer time limit of three months for concluding the enquiry, the order of reinstatement of the writ petitioners/first respondents herein may not arise at this stage. However, if the enquiry is not concluded within three months, further decision should be taken by the appellants, in accordance with law.

9. With the above observation, all these writ appeals are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

सत्यमेव जयते

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Director
Central Institute of Classical Tamil
IRT Campus, 100 Ft.Road
Taramani, Chennai 600 113.

2. The Registrar
Central Institute of Classical Tamil
IRT Campus, 100 Ft.Road
Taramani, Chennai 600 113.

+4cc to M/S.Menon Karthick, Advocate Sr.38932

+4cc to M/S.T.Sundaravadanam, Advocate SR.39087/16

W.A.Nos.1609 to 1612 of 2015

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