

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2016

CORAM :

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR. JUSTICE P.KALAIYARASAN

W.P.No.12967 of 2011
& M.P.No.1 of 2011

1. Establishment Committee of the
Board of Governors
National Institute of Fashion Technology
NIFT Campus, Hauzkhas
Near Gulmohar Park
New Delhi 110 016
2. The Director General
National Institute of Fashion Technology
NIFT Campus, Hauzkhas
Near Golmohar Park,
New Delhi 110 016. ... Petitioners

Vs.

A.S.Kumaresh ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari, calling for the records pertaining to the order dated 29.3.2011 made in O.A.No.1222 of 2009 on the file of the Central Administrative Tribunal, Madras Bench, Chennai and quash the same.

For Petitioners: Mr.Balan Haridoss

For Respondent : No appearance

ORDER

(Order of the Court was made by A.SELVAM, J.)

This Writ Petition has been filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari or any appropriate writ, calling for the records relating to the

order dated 29.3.2011 passed in Original Application No.1222 of 2009 by the Central Administrative Tribunal, Madras Bench and quash the same.

2. The respondent herein, as applicant, has filed Original Application No.1222 of 2009 on the file of the Central Administrative Tribunal, Madras Bench, wherein the present petitioners have been arrayed as respondents.

3. It is averred in the application that the applicant has joined service as Assistant Professor on 3.6.1996 at Chennai and during his tenure of office, he has been given a charge memo, which contains six charges and consequently, an enquiry has been conducted and the enquiry authority has found him guilty of all charges. The disciplinary authority has imposed a punishment of removal from service. Under such circumstances, the present application has been filed for getting the relief sought therein.

4. The Central Administrative Tribunal, Madras Bench, after considering the rival submissions made on either side, has upheld the findings given by the enquiry as well as disciplinary authority with regard to charges framed against the applicant. However, the Central Administrative Tribunal, Madras Bench has set aside the punishment of removal from service and also directed the respondents therein to reinstate the applicant in service by way of passing the impugned order and the same is being challenged in the present writ petition.

5. Even though the respondent/applicant has been served with summons, appearance has not been made. Under such circumstances, the present writ petition is disposed of on merits on the basis of the contentions put forth on the side of the writ petitioners.

6. The learned counsel appearing for the writ petitioners has sparingly contended that against the respondent/applicant, as many as six charges have been framed touching his moral turpitude and a detailed enquiry has been conducted and the enquiry authority has found him guilty of all charges and the same has been accepted by the disciplinary authority and consequently the punishment of removal from service has been imposed upon the respondent/applicant and the Central Administrative Tribunal, Madras Bench, after accepting the findings given by both the enquiry as well disciplinary authorities has taken a lenient view in setting aside the punishment imposed upon the respondent/applicant and therefore, the order passed by the Central Administrative Tribunal, Madras Bench is liable to be set aside.

7. It is seen from the records that against the respondent/applicant as many as six charges have been framed. The sum and substance of the charges is that during tenure of his office, he misbehaved with a student by name Sonia Ravindran.

8. It is an admitted fact that on the basis of charges framed against the respondent/applicant, a full-fledged enquiry has been conducted by an enquiry officer, wherein the so-called affected student has adduced evidence on the basis of charges framed against the respondent/applicant. On the strength of the evidence given by her, the enquiry authority has found him guilty of all charges and the same has been accepted by the disciplinary authority and consequently an order of removal of service was passed against him.

9. As rightly pointed out on the side of the petitioners, the Central Administrative Tribunal, Madras Bench, has accepted the findings given by both the enquiry and disciplinary authorities. However, the Central Administrative Tribunal, Madras Bench, has taken a lenient view in setting aside the punishment imposed against the respondent/applicant.

10. The learned counsel appearing for the writ petitioners has contended that after coming to a conclusion that the charges framed against the respondent/applicant are proved, considering the gravity of charges, the Central Administrative Tribunal has committed an error in setting aside the punishment.

11. It has already been pointed out that the respondent/applicant has misbehaved with a student and she has given categorical evidence to that effect during domestic enquiry. Considering the gravity of charges framed against the respondent/applicant and also considering that all charges are touching the moral turpitude, this Court is of the considered view that the punishment imposed by the disciplinary authority is perfectly correct and the same does not require any interference.

12. The Central Administrative Tribunal, Madras Bench, without considering the gravity of charges framed against the respondent/applicant and also without considering his status at the time of committing such kind of offence, has erroneously set aside the punishment imposed by the disciplinary authority and therefore, the present writ petition is liable to be allowed.

13. In fine, this Writ Petition is allowed without cost. The order dated 29.3.2011 passed in Original Application No.1222 of 2009 by the Central Administrative Tribunal, Madras Bench, is quashed and the Original Application No.1222 of 2009

is dismissed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ajr

To

The Registrar
Central Administrative Tribunal
Madras Bench, Chennai.

1 cc to Mr.Balan Haridoss, Advocate, sr.42976

W.P.No.12967 of 2011

gj co
kra 17.08.2016



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