

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.35865 of 2015
and
M.P.Nos.1 and 2 of 2015

R.Sivakoumar

... Petitioner

Vs.

The Registrar,
Anna University,
Chennai-25.

... Respondent

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Certiorarified Mandamus, to call for entire records regarding the impugned order of suspension passed by the respondent in the proceedings in Memo No.66460/PR25/2005 dated 15.09.2012 and quash the same and consequently, direct the respondent to reinstate the petitioner in service with all monetary benefits.

For Petitioner : Mr.S.Srinivasan

For Respondent : Mr.M.Vijayakumar

O R D E R

The petitioner has come up with the present writ petition, challenging the impugned order of suspension passed by the respondent in the proceedings in Memo No.66460/PR25/2005 dated 15.09.2012 and quash the same and consequently, direct the respondent to reinstate the petitioner in service with all monetary benefits.

2. According to the petitioner, he was originally appointed as Lecturer on contract basis and thereafter, his post was regularised. Subsequently, on 28.10.2008, he was promoted as Assistant Professor. While so, on 15.09.2012, the petitioner

was placed under suspension by the respondent in Memo No.66460/PR25/2005, dated 15.09.2012. Subsequently, a charge memo was issued on him on 02.01.2013. In this regard, the petitioner submitted a detailed explanation on 21.01.2013. However, after conducted an enquiry, no enquiry report was filed. Hence, the present Writ Petition.

3. When the matter was taken up for hearing, the learned Counsel for the respondent by filing a detailed counter would submit that since some irregularities in revaluation of answer scripts of the students in the University Departments happened during the tenure of Dr.P.Mannar Jawahar as Vice Chancellor of Anna University and also one of the suspended faculty member Dr.P.Tamilporai, the then ACOE, University Departments pointed out Dr.P.Mannar Jawahar for such discrepancies during the revaluation, the matter was referred to the Government for further course of action to be taken against Dr.P.Mannar Jawahar. The Government of Tamilnadu in their letter dated 18.10.2013 directed the authorities of the University to take appropriate action against Dr.P.Mannar Jawahar as per Statutes of Anna University and also informed the University that the matter has been referred to the Directorate of Vigilance and Anti Corruption. Further, the Directorate of Vigilance and Anti-Corruption, Chennai has informed the University by letter dated 07.05.2014 that a detailed enquiry into the above allegation has been taken up by DVAC against Dr.P.Mannar Jawahar, Dr.P.Tamilporai, Dr.K.P.Mani Anand and the petitioner. But no enquiry was so far ordered by the Anna University against anyone.

4. Learned counsel appearing for the petitioner submitted that in similar circumstances, this Court, in W.P.No.17478 of 2014 dated 10.3.2015, by relying upon the judgment of the Hon'ble Supreme Court reported in 2015 (2) SCALE 432 - Ajay Kumar Choudhary v. Union of India through its Secetary and another, directed the respondent therein to consider the representation of the petitioner therein. Hence, following the same, similar order could be passed in this writ petition also.

5. I have also heard the learned Counsel, who has taken notice on behalf of the respondent University.

6. Keeping the submissions made on either side, I have carefully gone through the materials available on record.

7. The relevant portion of the order dated 10.3.2015 passed by this Court in W.P.No.17478 of 2014 is usefully extracted hereunder:-

" 2. Heard the learned counsel for the petitioner and the learned standing counsel for the respondents.

3. The Supreme Court in Ajay Kumar Choudhary v. Union of India through its Secretary and another reported in 2015 (2) SCALE 432 has observed that suspension order should not extend beyond the period of three months.

4. The application submitted by the petitioner for review of suspension was rejected only on the ground that criminal case is pending. In view of the judgment of the Hon'ble Supreme Court cited supra, I am of the view that the matter requires fresh consideration by the first respondent.

5. In the result, the impugned order is set aside and the matter is remitted to the first respondent for fresh consideration. The petitioner is permitted to make a fresh representation. The first respondent is directed to consider the representation on merits and in the light of the observation made by the Hon'ble Supreme Court in the judgment referred to above. Such exercise shall be completed within a period of three months from the date of receipt of representation."

In this case, the petitioner is under suspension for a period of four years. Further, in the criminal case, till date, no charge sheet was filed.

8. In view of the above facts and circumstance of the case, though the petitioner prayed for a larger relief, instead of giving such a positive direction, I am of the opinion, it would be appropriate to direct the respondent to consider the case of the petitioner in the light of the judgment of the Hon'ble Supreme Court reported in 2015 (2) SCALE 432 - Ajay Kumar Choudhary v. Union of India through its Secretary and another.

9. Accordingly, without going into the merits of the claim made by the petitioner, the petitioner is directed to give a fresh representation to the respondent along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondent is directed to consider the same and pass appropriate orders, on merits and in accordance with law and also in the light of the judgment of the Hon'ble Supreme Court reported in 2015 (2) SCALE 432 - Ajay Kumar Choudhary v. Union of India through its Secretary and another, within a period of six weeks thereafter.

The writ petition is disposed of accordingly. No costs.
Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

tsi

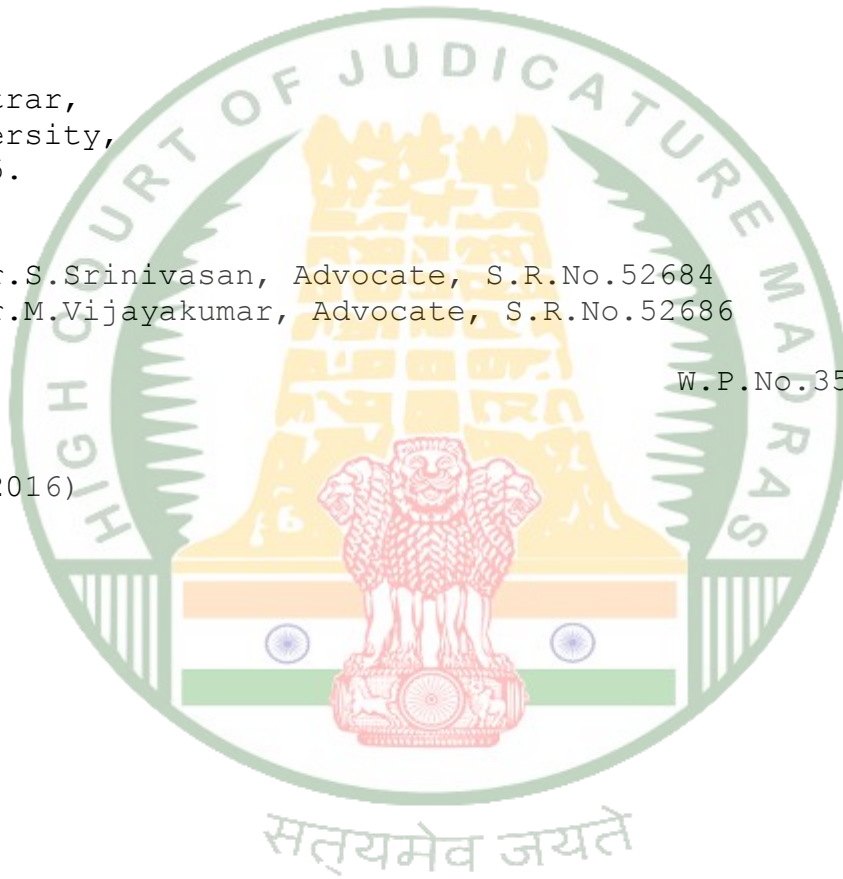
To

The Registrar,
Anna University,
Chennai-25.

+1cc to Mr.S.Srinivasan, Advocate, S.R.No.52684
+1cc to Mr.M.Vijayakumar, Advocate, S.R.No.52686

W.P.No.35865 of 2015

SM(CO)
CA(18/10/2016)



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