

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.12.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND

THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.1142 of 2016

M.Rajendran

...Appellant

Vs

1.The Registrar,
Pondicherry University, Puducherry.

2.The Executive Council
Pondicherry University, Puducherry.

3.The Vice Chancellor
Pondicherry University, Puducherry.

...Respondents

Prayer:- Writ Appeal filed under clause 15 of Letters Patent,
against the order made in W.P.No.23930 of 2009 dated 11.08.2011.

WP.No.23930 of 2009:Writ Petition filed under Article 226 of the
Constitution of India, for issuance of a Writ of Certiorarified
Mandamus to call for the records relating to the proceedings in
officer order No.113 Ref.No.PU/Estt/NT3/734/2009-10/83, dated
06.07.2009 and the consequential office order No.131 in
Ref.No.PU/Estt/NT3/734/2009-10/98, dated 20/21.07.2009 and the
Appellant order in Memorandum Ref.No.PU/Estt/NT3/2009-10/146,
dated 24.09.2009 of the Registrar, Pondicherry University,
Puducherry and quash the same and to direct the respondents to
reinstate the petitioner or Junior Assistant with all attendant
and consequential benefits arising thereof.

For Appellant : Mr.C.K.Chandrasekar

For Respondents : Mr.Stalin Abimanyu

J U D G M E N T
(made by K.K.SASIDHARAN,J.)

Even though the Registrar is the disciplinary authority in
the case of the employees of the Pondicherry University, the
Executive Council presided over by the Vice Chancellor passed
orders in the disciplinary proceedings initiated against the
appellant. Thereafter, the very same Executive Council rejected
the appeal preferred by the appellant. In short, the Appellate
Authority functioned both as Original Authority and Appellate

Authority and the same resulted in filing the writ petition and thereafter, the intra court appeal by the appellant.

2. The appellant, while working as a Junior Assistant was issued with a charge memo dated 24 May, 2007 by the Registrar, Pondicherry University, alleging certain acts of misconduct relating to tampering and manipulation of marks. The explanation submitted by the appellant was not found satisfactory. The Registrar therefore appointed an Enquiry Officer. The Enquiry Officer submitted his report. The report was forwarded by the Registrar to the Executive Council. The Executive Council resolved to accept the findings of the Enquiry Officer and decided to impose the punishment of "Compulsory Retirement" on the appellant. The order dated 6 July, 2009 was communicated to the appellant by the Registrar.

3. The appellant challenged the order dated 6 July, 2009 before the Appellate Authority. The appeal was placed before the Executive Council. The Executive Council after deliberations rejected the appeal. The order was once again communicated by the Registrar to the appellant, by Memorandum dated 24 September, 2009. The appellant challenged the orders dated 6 July, 2009 and 24 September, 2009 before the Writ Court.

4. The learned single Judge considered the writ petition along with another writ petition in W.P.No.23929 of 2009. It is the grievance of the appellant that without discussing the merits of his case or even the facts, the learned single Judge dismissed the writ petition filed by him by placing reliance on the factual situation in W.P.No.23929 of 2009 filed by Thiru.P.Ramesh Babu, which has nothing to do with him.

5. The learned counsel for the appellant by placing reliance on the Ordinances governing administrative matters framed by the Pondicherry University contended that the Registrar is the Disciplinary authority in so far as the appellant is concerned. The Registrar instead of taking a decision in the matter placed it before the Executive Council constituted under the Chairmanship of the Vice Chancellor. The Appellate Authority therefore acted as the Disciplinary Authority. The appeal filed against the order was placed before the very same authority. The learned counsel contended that the learned single Judge failed to consider the substantial issue raised by the appellant and dismissed the writ petition without even advertng to the facts of the case.

6. We have also heard the learned Standing Counsel for the Pondicherry University.

7. The Ordinances governing the administrative matters framed by the Pondicherry University clearly shows that the

Registrar is the Disciplinary Authority. The appellant was functioning as Junior Assistant and as such, the Disciplinary Authority is only the Registrar. The charge memo issued to the appellant dated 24 May, 2007 indicates that the Registrar in his capacity as the Disciplinary Authority framed the charges. The Enquiry Report was forwarded to the Registrar by the Enquiry Officer to take a decision in the matter. However, for the reasons best known, the Registrar placed the matter before the Executive Council comprising the Vice Chancellor and other higher officials. The Executive Council took a decision to impose the punishment of "Compulsory Retirement" and the order was communicated to the appellant by the Registrar.

8. The appellant on receipt of the order dated 6 July, 2009 imposing the punishment of "Compulsory Retirement" filed a statutory appeal before the Executive Council. The Appellate Authority once again considered the proceedings initiated against the appellant and rejected the appeal. The Vice Chancellor and other members, who were parties to the order dated 6 July, 2009 were the members of the Appellate Committee. Therefore, it is very clear that the Appellate Authority acted as the Disciplinary Authority and thereafter, decided the legality and correctness of the very same order sitting in the chair of Appellate Authority.

9. There is one more procedural defect committed by the Disciplinary Authority. Clause 11(2)(vi) of the Ordinances governing the Control and Appeal of the Employees of the University very clearly indicates that the order passed by the Disciplinary Authority must contain reasons. However, the fact remains that no such reasons were mentioned in the order dated 6 July, 2009 imposing the penalty of "Compulsory Retirement".

10. The first respondent of the Central University is the Registrar functioning in the Union Territory of Puducherry. The Executive Council committed a serious procedural illegality by taking up the appeal against its own order. The Registrar ought to have decided the disciplinary proceedings instead of placing it before the Executive Council. The Executive Council having found that the earlier order of Compulsory Retirement was passed by the said authority should not have taken up the appeal. The concurrent mistake committed by the Registrar and the Executive Council delayed the conclusion of the disciplinary proceedings. The learned single Judge has not taken note of the substantial contention taken by the appellant in the matter. We are therefore of the view that the orders impugned in the writ petition are liable to be set aside.

11. We set aside the orders dated 6 July, 2009 and 24 September, 2009 and remit the matter to the Disciplinary Authority for fresh consideration. The Disciplinary Authority is directed to consider the enquiry report and explanation submitted by the appellant and take a decision on merits as early as possible and in any case, within a period of three months from the date of receipt of a copy of this judgment.

12. In the upshot, we allow the intra court appeal. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Registrar,
Pondicherry University,
Puducherry.
- 2.The Executive Council
Pondicherry University,
Puducherry.
- 3.The Vice Chancellor
Pondicherry University
Puducherry.

+1 cc to M/s.C.K.Chandrasekar Advocate sr 86230
+1 cc to M/s.Stalin Abhimanyu Advocate sr 86641

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