



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2017

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THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.(MD)Nos.4259, 5052, 5053 and 5416 of 2011

and

Contempt Petition No.637 of 2011

and

W.P.(MD)No.1708 of 2012

and

W.P.(MD)Nos.8154 and 18704 of 2013

and

W.P.(MD)No.22720 of 2015

W.P.(MD)No.4259 of 2011

N.Paramarthalingom

.. Petitioner

Vs

1.The Commissioner,
Directorate of Technical Education,
Guindy,
Chennai - 600 025.

2.The Correspondent,
NMS Kamaraj Polytechnic College,
Pazhavilai Post 629 501.
Kanyakumari District.

3.A.Ponnappan

.. Respondents

Prayer in W.P.(MD)No.4259 of 2011: The writ petition is filed to under Article 226 of the Constitution of India, to issue a Writ of Mandamus for direction, directing the Respondent No.2 to appoint the petitioner in the post of office Superintendent in the Respondent institution with effect from 19.12.2006 and direct the Respondent No.1, to approve the appointment of the petitioner with effect from 19.12.2006.

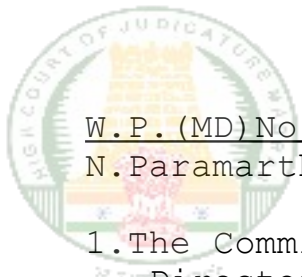
For Petitioner : Mr.Subbiah

For Respondents : Mr.K.Guru (for R1)

Government Advocate

Mr.N.Dilipkumar (for R2)

Mr.Xavier Rajini (for R3)



W.P.(MD)No.5052 of 2011

N.Paramarthalingom

.. Petitioner

Vs

1.The Commissioner,
Directorate of Technical Education,
Guindy,
Chennai - 600 025.

2.The Secretary & Correspondent,
NMS Kamaraj Polytechnic College,
Pazhavilai Post 629 501.
Kanyakumari District.

3.A.Ponnappan

.. Respondents

Prayer in MP(MD). 3/ 2011 in WP(MD).5052/2011 :

To pass an order of INTERIM INJUNCTION restraining the Respondent No.2 from the relieving the Petitioner from the post of Office Superintendent.

Prayer in W.P.(MD)No.5052 of 2011: The writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned communication in Letter No.2391/Si2/2011, dated 24.03.2011, on the file of the Respondent No.1 and quash the same as illegal.

For Petitioner	:	Mr.S.Subbiah
For Respondents	:	Mr.K.Guru (for R1) Government Advocate Mr.N.Dilipkumar (for R2)

W.P.(MD)No.5053 of 2011

N.Paramarthalingom

.. Petitioner

Vs

1.The Commissioner,
Directorate of Technical Education,
Guindy,
Chennai - 600 025.

2.The Secretary & Correspondent,
NMS Kamaraj Polytechnic College,
Pazhavilai Post 629 501.
Kanyakumari District.

.. Respondents

Prayer in W.P.(MD)No.5053 of 2011: The writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned communication in Letter No.4767/Si2/2011, dated 07.04.2011 on the file of the Respondent No.1 and quash the same as illegal. Consequently to direct the Respondent No.1 to approve the appointment of the petitioner with effect from 19.12.2006.



For Petitioner : Mr.S.Subbiah
For Respondents : Mr.K.Guru (for R1)
Government Advocate
Mr.N.Dilipkumar (for R2)

W.P. (MD) No.5416 of 2011

The Kamaraj Polytechnic College,
Through it's Secretary/Correspondent
S.Sathasivan,
Pazhavilai,
Kanyakumari District.

.. Petitioner

Vs

1.The Commissioner of Technical Education,
Guindy,
Chennai - 600 025.

2.Ponnappan

3.The Chairman,
Governing Council,
The Kamaraj Polytechnic College,
Pazhavilai, Nagercoil, Kanyakumari District.

4.G.Karikolraj

.. Respondents

Prayer in W.P.(MD)No.5416 of 2011: The writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the 3rd respondent bearing No.NMSKP/01246/A1/2006 dated 23.01.2009 and the consequential order of the 4th respondent herein bearing No.NMSKP/01246/A1/2006 dated 30.01.2009 and quash the same.

For Petitioner : Mr.M.Suresh

For Respondents : Mr.K.Guru (for R1)
Government Advocate
Mr.Xavier Rajini (for R2)

R3 - Dismissed for default vide
Court order dated 22.08.2013
R4 - No Appearance

W.P. (MD) No.1708 of 2012

N.Paramarthalingom

.. Petitioner

Vs

<https://hcprsecourt.com/in/services>
The Commissioner,
Directorate of Technical Education,
Guindy, Chennai - 600 025.



2.The Secretary & Correspondent,
NMS Kamaraj Polytechnic College,
Pazhavilai Post 629 501.
Kanyakumari District.

.. Respondents

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Prayer in W.P.(MD)No.1708 of 2012: The writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in No.N.M.S.K.P-1065-Se-Tha-2011 dated 19.01.2012 on the file of the Respondent No.2 and quash the same as illegal.

For Petitioner : Mr.S.Subbiah

For Respondents : Mr.K.Guru, (for R1)
Government Advocate
Mr.N.Dilipkumar (for R2)

W.P.(MD)No.8154 of 2013

N.Paramarthalingom

.. Petitioner

Vs

1.The Commissioner,
Directorate of Technical Education,
Guindy,
Chennai - 600 025.

2.The Correspondent-Cum-Secretary,
NMS Kamaraj Polytechnic College,
Pazhavilai Post - 629 501.
Kanyakumari District.

3.A.Ponnappan

.. Respondents

Prayer in WP(MD)No.8154 of 2013: This petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the proceedings of appointment order dated 02.01.2013 passed by the 2nd Respondent in NMSKP-019-A1-2013, and quash the same.

For Petitioner : Mr.S.Subbiah

For Respondents : Mr.K.Guru (for R1)
Government Advocate
Mr.N.Dilipkumar (for R2)
Mrs.Xavier Rajini (for R3)

W.P.(MD)No.18704 of 2013

A.Ponnappan

.. Petitioner

Vs

1.The Accountant General,
Chennai, Tamilnadu,
No.261, Annasalai, Chennai - 600 018.



2.The Commissioner,
Directorate of Technical Education,
Guindy, Chennai-600 025.

3.The Correspondent,
NMS Kamaraj Polytechnic College,
Pazhavilai Post - 629 501.
Kanyakumari District.

4.N.Paramarthalingom

.. Respondents

Prayer in WP(MD)No.18704 of 2013: This petition is filed under Article 226 of the Constitution of India, to issue a writ of Mandamus directing the respondents 1 to 3 to sanction retirement benefits including pension to the petitioner in the cadre of Superintendent in the 3rd respondent college namely, N.M.S.Kamaraj Polytechnic College, Pazhavilai.

For Petitioner : Mr.Isaac Mohanlal, Senior Counsel
for Mr.Xavier Rajini

For Respondents : Mr.P.Gunasekaran (for R1)
Mr.K.Guru (for R2)
Government Advocate
Mr.N.Dilipkumar (for R3)
Mr.S.Subbiah (for R4)

W.P. (MD)No.22720 of 2015

N.Paramarthalingom

.. Petitioner

Vs

1.The Principal Accountant - General (A&E),
Tamil Nadu,
No.361, Anna Salai, Teynampet,
Chennai - 600 018.

2.The Commissioner of Technical Education,
Chennai - 600 025.

3.Chairman,
The Governing Council,
Nadar Mahajana Sangam Kamarajar
Polytechnic College,
Pazhavilai - 629 501.
Kanyakumari District.

4.The Correspondent/Secretary,
Nadar Mahajana Sangam Kamarajar
Polytechnic College,
Pazhavilai - 629 501.
Kanyakumari District.

<https://hcservices.hcma.gov.in/hcservices/>

5.A.Ponnappan

.. Respondents

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Mr.K.Guru (for R2)
Government Advocate
Mr.N.Dilipkumar (for R3 and R4)
Mr.Isaac Mohanlal, Senior counsel
for Mr.T.Cibi Chakaravarthy (for R5)

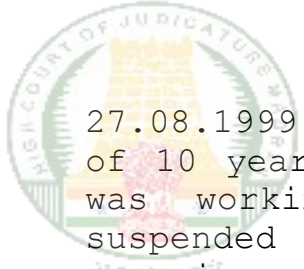
.. Petitioner

.. Respondent

nd Services: econts.gov.in/heservices/

Government Advocate

W.P. (MD) No. 22720 of 2015: The case of petitioner is that on 22.09.1982, he was appointed as Junior Assistant in the 4th respondent Educational Institution which is an aided one, under the Grant in Aid Code of the Tamil Nadu Technical Education Department and it is a registered society, under the provisions of the Tamil Nadu Registration of Societies Act its Registration No. 56 of 1983. The petitioner was promoted as an Assistant on



27.08.1999 and he was also conferred Selection Grade on completion of 10 years of service. In the meantime, the 5th respondent who was working as Superintendent in 4th respondent school was suspended from service on 18.12.2006 and therefore the petitioner was given in charge as Superintendent with effect from 19.12.2006. (Management admitted in Counter). Thereafter the 5th respondent has been terminated from service on 17.11.2008 after due enquiry for the serious allegation that he partially acted to one particular political party when he was deputed to election duty.

2. Therefore, in the vacancy arose due to the termination of 5th respondent, the petitioner was next eligible person to be promoted. Thus, the 4th respondent posted the petitioner as Office Superintendent by promotion on 16.12.2010 and the petitioner got retired as Office Superintendent on 31.05.2012. In the meantime, the 5th respondent preferred an appeal before 3rd respondent as against termination order and 23.01.2009 the 3rd respondent has modified the punishment from termination to with hold one increment with cumulative effect and treated his suspension period as one that of period in service. However, the petitioner was not reverted back to his original post of Assistant and he was working along as Superintendent, after reinstatement of 5th respondent in service.

3. While so, the 4th respondent passed an order to terminate the 5th respondent on 16.12.2010 as the writ petition filed by the 5th respondent came to be dismissed as withdrawn. As against this order, the 5th respondent has approached the 2nd respondent, instead of approaching Governing council/3rd respondent. The 2nd respondent has cancelled the termination order passed by the 4th respondent and directed to reinstate 5th respondent in service by the order dated 25.03.2011.

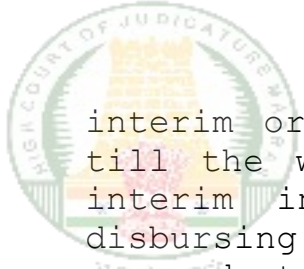
4. It is the case of the petitioner that at the time of posting him as Office Superintendent by the 4th respondent, there is no staff selection committee in the 4th respondent college due internal dispute and therefore the 4th respondent has posted the petitioner as Office Superintendent by promotion. This is the reason for not granting approval on the promotion of petitioner by 2nd respondent. As the 2nd respondent directed the 4th respondent to reinstate 5th respondent by reverting back the petitioner, a writ petition in WP(MD)No.5052 of 2011 has been filed and on 28.04.2011, this Court granted interim injunction in relieving the petitioner from the post of Office Superintendent and in view of this order, the petitioner has continued as Office Superintendent. In the meantime, the 4th respondent has reverted back to the original post of Assistant on 19.01.2012 as against the interim order of this Court, so petitioner filed a WP(MD)No.1708 of 2012 and on 05.02.2012, this Court granted interim order in M.P.No.2 of 2012 on 05.02.2012. So, the 4th respondent immediately cancelled the reversion order on 15.02.2012 passed against the petitioner.



5. The 4th respondent has allowed the petitioner to retire on 31.05.2012 and on 29.12.2012, the 3rd respondent convened governing council and passed the order on the representation of 5th respondent to reinstate and the same was considered and the 5th respondent was reinstated in service after a period of nearly 7 months in the post of Office Superintendent which held by the petitioner till his retirement. After the reinstatement of 5th respondent, he attained superannuation on 31.05.2013. Therefore, a pension proposal was sent to 2nd respondent for 5th respondent by 4th respondent for which the petitioner opposed that for the works rendered by the petitioner in the post of Office Superintendent, the 5th respondent cannot claim benefit on pension. Therefore, the petitioner filed another writ in W.P.(MD)No.8154 of 2013, calling for the records relating to reinstatement order of 5th respondent dated 02.01.2013. The main ground raised in this regard by the petitioner is that the 5th respondent should have filed appeal within 30 days against his termination order before the 3rd respondent governing Council, whereas he approached the 3rd respondent only on 14.12.2012 that too after 7 months since the retirement of petitioner and the writ petition filed by the petitioner questioning his relieving order is pending with interim injunction not to relieve him from the post of Office Superintendent, the reinstatement of 5th respondent with retrospective effect is against the interim order. Further, it is the contention of the petitioner that once the Government employees who are deputed for election duty has been found guilty under Representation of People Act, as per Sections 129 and 134, and those employees once terminated, cannot be reinstated into service until their stigma is wiped off by procedure known to law. This contention is acceptable and the 5th respondent ought not to have reinstated with retrospective effect and the petitioner is entitled to claim pension on the post of Office Superintendent and after his retirement only the 5th respondent has been ordered to reinstate by the respondents 3 and 4. Therefore, the 5th respondent is only entitled for claim benefits for the period from 20.03.1985 to 18.12.2006. Further during the force of interim injunction in WP(MD)No.5052 of 2011, not to relieve the petitioner from the post of Office Superintendent is pending, the 5th respondent is not at all entitled to reinstate in the place of petitioner even after the retirement until, the writ petition is finalized.

6. It was the interim order passed by this Court in WP(MD) No.8154 of 2013 dated 08.05.2013, since the retrospective posting of the 3rd respondent/5th respondent herein as office Superintendent is the subject matter of challenge, if the pension is settled to the 3rd respondent in the scale of office Superintendent, then it

<https://www.hcma.org.in/services/> would be as if two persons working in the same post during the relevant point of time. Since the petitioner has worked as Office Superintendent during the relevant point of time, pursuant to the

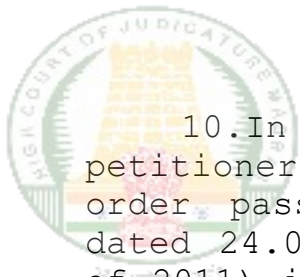


interim orders passed in the writ petition filed by him, hence, till the writ petitions are decided, there will be an order of interim injunction restraining the respondents 1 and 2 from disbursing the terminal benefits of the 3rd respondent/5th respondent herein in the scale of pay of Office Superintendent, however pension shall be fixed in a lower post as Assistant to the 5th respondent. When this is the order, the 3rd and 4th respondents sent pension proposal for the 5th respondent in the cadre of Assistant, but not on the post of Office Superintendent because there exist only one post of Assistant and there is no impediment for the 2nd respondent for granting benefits to the petitioner on the post of Office Superintendent.

7. Accordingly, it is held that the retrospective posting of the 5th respondent herein as office Superintendent is per se illegal and the pension is settled to the 5th respondent in the scale of office Superintendent, then it would amount to two persons working in the same post during the relevant point of time. All these common arose only because of lethargic and favouring acts on the part of managements i.e. respondents 3 and 4. Therefore, it is clear that the petitioner has worked as Office Superintendent during the relevant point of time, pursuant to the interim orders passed in the Writ Petition filed by him and when the reposting of 5th respondent was not in the manner known to law, the 2nd respondent is directed to grant benefits to the petitioner, fixing him as Office Superintendent from 19.12.2006 to 31.05.2012 and disburse all his benefits on the post of Office Superintendent and settled all arrears within a period of four weeks along with simple interest.

8. It is also made clear that the 5th respondent is entitled for benefits only upto 18.12.2006 as Office Superintendent and thereafter he is entitled to get benefits, if he is eligible, only on the post of Assistant.

9. In view of the above, the writ petition filed by the petitioner in WP(MD)No.4259 of 2011 is allowed, in the instant case the appointment is not to the feeder category post but to a post on promotion and as per the order of this Court dated 21.12.2000 in WP.No.4894 of 1993 it has been ordered that the vacant draftsman post has to be filled with effect from the date of its vacancy and one Mr.C.Selvamani was appointed from the date of vacancy in the respondent college and a similar order on 21.12.2000 for appointment one D.Deenisclament from the previous date of the creation of vacancy in W.P.No.7656 of 1993 and the candidate was posted from the previous date as per the Court order in the respondent college. As per Article 16(1) of the Constitution of India "There shall be equality of opportunity for ~~services, posts or employment~~ matter relating to employment or appointment to any office under the State".

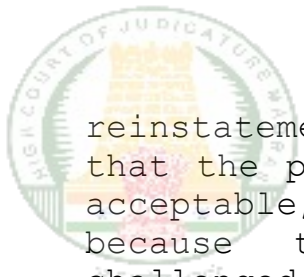


10. In view of the above the writ petition filed by the petitioner in WP(MD)No.5052 of 2011 is allowed and the impugned order passed by the communication in Letter No.2391/Si2/2011, dated 24.03.2011 on the file of the 1st respondent (WP(MD)No.5052 of 2011) is set aside because as per the grant in Aid code clause 15 speaks about in the case of members of the teaching staff, an appeal against all punishments including dismissals shall lie to the Director and in other cases to the Governing Council, whose decision thereon shall be final. Hence, the 1st respondent has no jurisdiction to pass any order in accordance with non-teaching staff.

11. In view of the above the Writ petition filed by the petitioner in WP(MD)No.5053 of 2011 is allowed and the impugned communication in letter No.4767/Si2/2011, dated 07.04.2011 on the file of the 1st respondent (WP(MD)No.5053 of 2011) is set aside, because the circular No.55731/Si1/2010, dated 16.12.2010 issued by the 1st respondent is required only in the case of appointment to the feeder category post alone, but in the instant case the appointment is not to the feeder category post but to a post on promotion, moreover as per the order of this Court dated 21.12.2000 in WP.No.4894 of 1993, it has been ordered that the vacant draftsman post has to be filled with effect from the date of its vacancy and one Mr.C.Selvamani was appointed from the date of vacancy in the respondent college and a similar order on 21.12.2000 for appointing one D.Deenisclament from the previous date of the creation of vacancy in W.P.No.7656 of 1993 and the candidate was posted from the previous date as per the Court order in the respondent college. As per Article 16(1) of the Constitution of India "There shall be equality of opportunity for all citizens in matter relating to employment or appointment to any office under the State.

12. The writ petition filed by Mr.S.Sathasivan in WP(MD)No.5416 of 2011 (filed by stating as he is Secretary/Correspondent of Kamaraj Polytechnic College) supports only the petitioners case, at the time of argument it is reported that S.Sathasivan is died already, but no one come forward to pursue the case. Hence, the writ petition dismissed as default.

13. The Contempt Petition filed by the petitioner in Contempt Petition (MD)No.637 of 2011 is against the Commissioner, Directorate of Technical Education because he sent the communication in Letter No.2391/Si2/2011, dated 24.03.2011 directing the Secretary/Correspondent, NMS Kamaraj Polytechnic College, Kanyakumari and take action to reinstate A.Ponnappan in the post of Office Superintendent and sent back the action taken report to him and also once again on 14.06.2011 the Commissioner sent a communication in Letter No.2391/Chi2/2011 to the Secretary of the Institution and given direction to reinstate A.Ponnappan as Office Superintendent and sent back the report of the



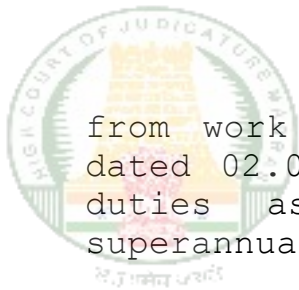
reinstatement and also the respondent stated in his communication that the petitioner's appointment of Office Superintendent is not acceptable, it is against the interim injunction of this Court because the letter No.2391/Si2/2011, dated 24.03.2011 is challenged in WP(MD)No.5052 of 2011 and this Court granted interim injunction in MP.No.3 of 2011, still interim injunction is in force but contra Commissioner sent a communication, hence the Commissioner did not obey the order of this Court and he should be punishable under the Contempt of Court.

14.The writ petition filed by the petitioner in WP(MD)No.1708 of 2012 is become infructuous, because the petitioner challenged the order of Secretary/Correspondent of the College reverted back the petitioner to the original post of Assistant on 19.01.2012 as against the interim order of this Court, after obtaining interim order in MP.No.2 of 2012 on 05.02.2012 the correspondent immediately cancelled the reversion order passed against the petitioner in No.N.M.S.K.P-1065-Se-Tha-2011 on 15.02.2012.

15.The writ petition filed by the petitioner in WP(MD)No.8154 of 2013 is allowed and the impugned proceedings of appointment order dated 02.01.2013 passed by the 2nd respondent in NMSKP-019-A1-2013 is set aside because Ponnappan should have filed appeal within 30 days against his termination order before the Governing Council, whereas he approached the Governing Council only on 14.12.2012 that too after 7 months since the retirement of petitioner and the writ petition filed by the petitioner questioning his relieving order is pending with interim injunction not to relieve him from the post of Office Superintendent, the reinstatement of Ponnappan with retrospective effect is bad in law. Further, it is the contention of the petitioner that once the Government employees who are deputed for election duty have been found guilty under Representation of People Act, as per Sections 129 and 134, and those employees once terminated, cannot be reinstated into service until their stigma is wiped off by procedure known to law. This contention is acceptable and the Ponnappan ought not to have been reinstated with retrospective effect and the petitioner is entitled to claim pension on the post of Office Superintendent and after his retirement only Ponnappan has been ordered to be reinstated by the respondents 3 and 4.

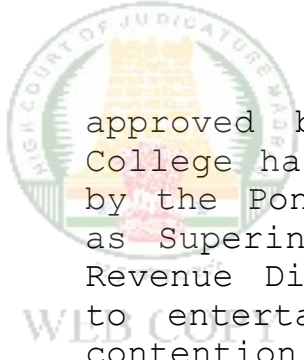
16.The writ petition filed by A.Ponnappan in WP(MD)No.18704 of 2013 is to be dismissed because the counter filed by him in WP(MD)No.8154 of 2013 and affidavit filed by him in present writ petition are perused, the main contention of A.Ponnappan is since 02.09.2005 (i.e.) from the triennium 2005-2008, the District Registrar of Societies has not approved any Form VII in respect of the appointment of the Managing Committee. So also the respondent is not approved anybody as the Secretary-cum-Correspondent of the respondent college since 2005. He further contented that one S.Sathasivan, claiming himself as the Secretary

of the College, issued a Charge Memo on him dated 18.12.2006 leveling vexatious allegations that during the local body election on 13.10.2006, as an Election Officer, he was campaigning for one of the political parties. S.Sathasivan also issued an order of suspension to Ponnappan from service on 18.12.2006 and also issue Charge Memo dated 18.12.2006 and also he contended that said triennium 2005-2008 came to end in august 2008. The Election was held for the next triennium 2008-2011 on 29.10.2009. One G.Karikolraj came to be elected as the Secretary-cum-Correspondent of the College. Further, he content that previous triennium ended in August 2008, the said S.Sathasivan issued an order dated 17.11.2008 claiming himself again as the Secretary and dismissing Ponnappan from service and also Ponnappan further content that he preferred an appeal against the dismissal order to the Governing Council on 15.12.2008. The Governing Council after considering the entire matter, set aside the order of dismissal by order dated 23.01.2009 and modified the punishment as stoppage of one increment with cumulative effect the council further ordered that the period of suspension should be treated as service period. Ponnappan further contended that the college permitted him to rejoin duty vide order dated 30.01.2009 he rejoined duty on 02.02.2009 and he had been discharging his duties. After about one year and 9 months, the writ petition (MD)No.1830 of 2007 (challenging the Charge Memo) was listed for hearing before this Court on 01.11.2010. It was reported that the writ petition had become infructuous and this Court dismissed the same recording it as infructuous, then there erupted some disputes in the administration of the College suddenly on 16.12.2010, one C.Dharmalingam, claiming himself as the Secretary, issued an order again dismissing Ponnappan from service with immediate effect stating that Ponnappan Writ Petition(MD)No.1830 of 2007 (challenging the Charge Memo) had been dismissed. Ponnappan also further content that C.Dharmalingam was not approved either by the Registrar of Societies or by the respondent Commissioner. The said C.Dharmalingam has no authority to pass dismissal order, he further content that on 29.12.2010 he made a representation to the Commissioner against the dismissal. The Commissioner by order dated 24.03.2011, directed the college to set aside the dismissal and to permit Ponnappan to work and to report the same to him. Ponnappan further contents that after the superannuation of Paramarthalingam (petitioner) on 14.12.2012 he made a representation to the Governing Council of the College and requesting to permit him to discharge his duties as Superintendent. The Governing Council permitted Ponnappan to discharge his duties as Superintendent in the College vide proceedings dated 29.12.2012 and further directed that the period when he was prevented from discharging the duty should be treated as service period, and however he was not entitled to claim any benefits from the college. In view of the same, the respondent college permitted Ponnappan to discharge his duties as Superintendent and further ordered that the period of prevention



from work should be treated as service period vide proceedings dated 02.01.2013. Accordingly, again he started discharging his duties as Superintendent from 02.01.2013 and he attained superannuation on 31.05.2013 and retired from service.

17. The contention raised by the petitioner (Paramarthalingam) is that since from the triennium 2005-2008, the District Registrar of Societies has not approved any form VII in respect of the appointment of the Managing Committee till now i.e. 2017, and till Commissioner has not approved anybody as the Secretary-cum-Correspondent of the College till now i.e. 2017. But every triennium after 02.09.2005 there is a proper election conducted and proper management body selected and run the college, only rival group dispute alone the management was not approved and also lot of litigation, but every triennium proper election conducted and proper management has been selected, but it is a content of respondent Ponnappan the non approved governing council only consider his appeal and order for reinstate and order with retrospective effect, but in so far as suspend and dismissal is concerned the Ponnappan was charged under Representation of the People's Act, 1951 Disciplinary Proceedings were recommended against him by the Revenue Divisional Officer. The Revenue Divisional Officer submitted a report before District Collector, Kanyakumari on 14.10.2006. After receiving the report, the District Collector on 19.10.2006 sent communication to the Commissioner to take action against Ponnappan for his grave malpractice while he was discharging his duty as poll booth Presiding Officer in the year 2006, based on the communication of District Collector, the Commissioner by his letter No.47557/C2/2006 dated 29.11.2006 directed the college to take action against Ponnappan, based on the letter of Commissioner only the Secretary has initiate legal action against Ponnappan, hence after the sanction order from the concerned authorities the Secretary has taken legal action, hence the non approval of management is not necessary for taking legal action against Ponnappan and also other contention is that the triennium ended in August 2008, the said S.Sathasivan issued an order dated 17.11.2008 is not acceptable one, because the next triennium sworn only at the month of December 2008, till such time S.Sathasivan only rendered his duty as Secretary and Correspondent, more over the charges framed against the Ponnappan is happened only in outside of the College, hence the Commissioner directed to take action against the said Ponnappan and after proper enquiry only dismissal order was passed against the Ponnappan and he cannot able to reinstate from the order of Government Council, the Governing Council without any authority of law simply stated that the offence is simple in nature, but as per the Representation of the People's Act, 1951 the stigma of guilt can wiped out only by the procedure known to law can be reinstate and Ponnappan was not challenged the termination order in any Court. Hence reinstatement of Ponnappan order dated 23.01.2009 was not yet



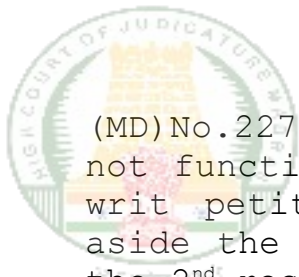
approved by Commissioner till date and the Secretary of the College has taken action to recover the illegitimate salary drawn by the Ponnappan during the period from 19.12.2006 to 31.10.2010 as Superintendent and also there was no recommendation from the Revenue Divisional officer or District Collector or Commissioner to entertain his appeal at Governing Council. Further, the contention of the petitioner Mr. Paramarthalingam is that after the suspend of Ponnappan dated 18.12.2006 is discharging his duty as Superintendent as a promotion post and the Secretary/Correspondent passed promotion order to Mr. Paramarthalingam on 16.12.2010. Therefore, Assistant post alone kept vacancy from 19.12.2006 in the respondent college.

18. The writ petition filed by the petitioner in WP(MD)No.22720 of 2015 is allowed and directing the 4th respondent to forward the pension papers of the petitioner in accordance with the procedures as contemplated under the Tamil Nadu Pension Rules 1978, by treating the services of the petitioner, as the Junior Assistant from 22.09.1982 to 26.08.1999, as the Assistant from 27.08.1999 to 18.10.2006 and as the Office Superintendent from 19.10.2006 to 31.05.2012, as per the admissible Rules to the 2nd respondent, with the further direction to the 2nd respondent to forward the pension papers to the 1st respondent and further the 1st respondent is hereby directed to pay the pension and gratuity and all other retirement benefits with interest to the petitioner as per the admissible rates, such settlement of pension to be settled to the petitioner within a period of four weeks.

19. In WP(MD)No.8154 of 2013, the writ petitioner Mr. N. Paramarthalingam has challenged the order passed by the 2nd respondent dated 02.01.2013, in which the 2nd respondent is directed to appoint Mr. A. Ponnappan/3rd respondent herein to functioning as Superintendent of the College. This Court by order dated 08.05.2013 in MP(MD)No.2 of 2013 in WP(MD)No.8154 of 2013 has passed the order as follows:

"Since the retrospective posting of the third respondent as Office Superintendent is the subject matter of challenge, if the pension is settled to the third respondent in the scale of Office Superintendent, then it would amount to two persons working in the same post during the relevant point of time. Since the petitioner has worked as Office Superintendent during the relevant point of time, pursuant to the interim orders passed in the writ petition filed by him, hence, till the writ petitions are decided, there will be an order of interim injunction restraining the respondents 1 and 2 from disbursing the terminal benefits of the third respondent in the scale of pay of Office Superintendent, however <https://hcservices.epson.gov.in/hcservices/> will be fixed in a lower post as Assistant."

Since the 3rd respondent has not challenging the said order dated 08.05.2013 till date, therefore, in view of the order passed in WP



(MD)No.22720 of 2015, it is made clear that the 3rd respondent is not functioning as the office of the Superintendent and hence the writ petition in WP(MD)No.8154 of 2013 is allowed, by setting aside the order in NMSKP-019-A1-2013, dated 02.01.2013, passed by the 2nd respondent.

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20. Since this Court by order in MP(MD)No.2 of 2013 in WP(MD)No.8154 of 2013, dated 08.05.2013 was not challenged and in view of allowing of WP(MD)No.8154 of 2013, the writ petition filed by Mr.A.Ponnappan in WP(MD)No.18704 of 2013 is dismissed.

21. In view of the order passed in WP(MD)No.22720 of 2015, the other writ petitions in WP(MD)Nos.4259, 5052, 5053, Cont.P.No.637 of 2011 and WP(MD)No.1708 of 2012 are closed and WP(MD)No.5416 of 2011 is dismissed as the writ petitioner was died.

Sd/

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar.

To

1. The Commissioner Directorate of Technical Education,
Guindy, Chennai - 600 025.
2. The Accountant General, Office of the Accountant General
Chennai, Tamilnadu, No.261, Annasalai, Chennai - 600 018.
3. The Principal Accountant - General (A&E),
Tamil Nadu, No.361, Anna Salai, Teynampet, Chennai - 600 018.
4. Mr. Ramesh Chand Meena, I.A.S., Commissioner,
Directorate of Technical Education, Guindy, Chennai-600 025.

+2CC to M/S.S.Subbiah, Advocate, SR.No. 9579, 9580
+1CC to M/S.N.Dilip Kumar, Advocate, SR.No. 9764
+1CC to M/S.Xavier Rajini, Advocate, SR.No. 10039
+1CC to M/S.T.Cibi Chakraborty, Advocate, SR.No. 10040

W.P. (MD) Nos. 4259, 5052, 5053 and 5416 of 2011

and

Contempt Petition No.637 of 2011

and

W.P. (MD) No.1708 of 2012

and

W.P. (MD) Nos.8154 and 18704 of 2013

and

W.P. (MD) No.22720 of 2015

21.02.2017