

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2018

CORAM:

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

W.A.No.892 of 2017
and C.M.P.No.12524 of 2017

1.The Vice Chancellor
Annamalai University
Annamalai Nagar
Chidambaram
Cuddalore District.

2.The Registrar
Annamalai University
Annamalai Nagar
Chidambaram
Cuddalore District.

... Appellants/Petitioner

Vs

R.Prabhakaran

...Respondent/Respondent

Prayer:- Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order passed by this Court in W.P.No.5617 of 2017 dated 01.06.2017.

WP.NO.5617/2017:

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified mandamus to call for the records of the 2nd respondent made in proceedings in Office Memorandum No.C3-1/19922/2015 dated 27.05.2016 and quash the same and consequently direct the 1st respondent to reinstate the petitioner in service as Helper

For Appellants : Mr.V.R.Kamalanathan
For Respondent : Mr.N.Umapathi

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

The respondent was suspended from service on account of his misconduct relating to the malpractice in the examination conducted by the University. The respondent was suspended by

order dated 04 March, 2015 pending initiation of disciplinary enquiry. The University alleged that the respondent indulged in malpractice by inserting answer sheet for certain candidates who were not present for the examinations. The respondent submitted his reply to the charge memo. Thereafter, the respondent filed appeal before the Vice Chancellor, challenging the order of suspension. The appeal was dismissed by the University by order dated 27 May, 2016. The respondent challenged the said order on the ground that the appellate power was exercised by the original authority. In short, the respondent contended that the appellate order was passed only by the Registrar, who was the author of the earlier order of suspension dated 04 March, 2015. The learned Single Judge accepted the contention taken by the respondent and allowed the writ petition. The order is under challenge at the instance of the University.

2. We have perused the file produced by the learned Standing Counsel for the University. It is found that the appellate order was signed by the Vice Chancellor on 18 May, 2016. As per the endorsement, the Vice Chancellor directed the Registrar to communicate the order to the respondent. The order communicated to the respondent indicates as if the order was passed only by the Registrar. It was only under the said circumstances, we have directed the learned Standing Counsel to produce the original file. The file clearly shows that the order was passed only by the Vice Chancellor. Therefore, we reject the contention taken by the respondent that the original authority acted as an appellate authority and passed the impugned order dated 27 May, 2016.

3. The other question is as to whether it is proper on the part of the University to continue suspension without reviewing it after some period.

4. The order of suspension was made on 04 March, 2015. The University is bound to review the suspension. The Hon'ble Supreme Court in *Ajay Kumar Choudhary vs. Union of India*, through its Secretary and another [(2015) 7 SCC 291], made it clear that the suspension shall be reviewed periodically by the disciplinary authority.

5. We direct the University to review the suspension within a period of three months from today and decide as to whether the suspension should be continued further. It is needless to point out that the respondent is entitled to the subsistence allowance in accordance with the statutes of the University.

The intra court appeal is allowed in part as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

gms

To

1.The Vice Chancellor
Annamalai University
Annamalai Nagar
Chidambaram
Cuddalore District.

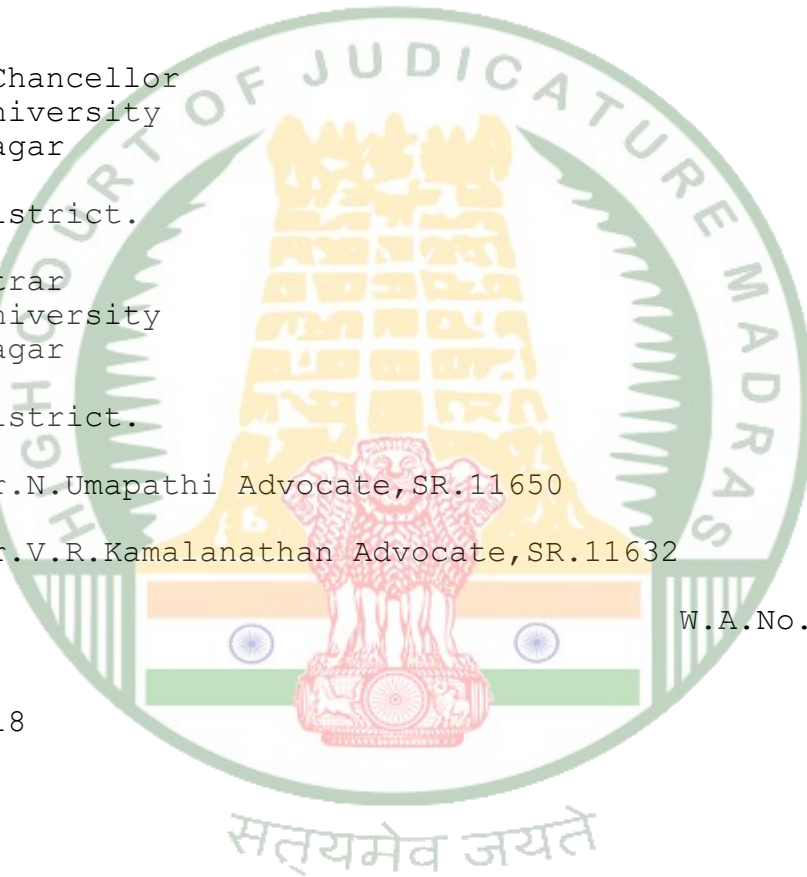
2.The Registrar
Annamalai University
Annamalai Nagar
Chidambaram
Cuddalore District.

+ 1 cc to Mr.N.Umapathi Advocate,SR.11650

+ 1 cc to Mr.V.R.Kamalanathan Advocate,SR.11632

W.A.No.892 of 2017

pvs (co)
nr 14/03/2018



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