

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.04.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.23057 of 2006

and

M.P.No.1 of 2006

T. Lordwin Navamony Premkumar ... Petitioner

Vs.

1.State of Tamil Nadu
Rep. By its
Secretary to Government
Education Department,
Fort St. George,
Chennai 600 009.

2. The District of Technical Education,
Anna University,
Chennai.

3.The Chairman,
Governing Council
Mohamed Sathak Polytechnic,
Kilakarai - 623 806.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the third respondent herein in No.PROC.No.E1/1275/1994 dated 31.05.2006 and quash the same and direct the I and II respondent to direct the III respondent to comply with the order passed in W.P.No.10756/1994 and reinstate the petitioner in service with all backwages and all other attendant benefits both monetary and other benefits including seniority.

For Petitioner : Mr. G. Muthukrishnan

For Respondents : Mr. R.Govindasamy (for R1 & R2)
M/s. K. Selvaraj (for R5)

O R D E R

The petitioner filed a writ petition to call for the records of the third respondent herein in No.PROC.No.E1/1275/1994 dated

31.05.2006 and quash the same and direct the I and II respondent to direct the III respondent to comply with the order passed in W.P.No.10756/1994 and reinstate the petitioner in service with all backwages and all other attendant benefits both monetary and other benefits including seniority.

2. The case of the petitioner is that the petitioner has passed Diploma in Mechanical Engineering in the year 1982. Thereafter, he was recommended through Employment Exchange and was appointed as Workshop Instructor in the third respondent Polytechnic which is a Government aided Polytechnic. The respondents 1 and 2 have administrative control over the third respondent. After joining the duty, the petitioner was promoted as Instructor Mechanical Engineering. In view of his good conduct, work apprehension, he was also put incharge of N.C.C. Officer in the year, 1989. While so, without assigning any reason, the petitioner was placed under suspension on 28.01.1993 and called upon him to give explanation. On 10.03.1983, the same was received by the third respondent/Management. The Management, not being satisfied with the reason assigned by the petitioner, served the petitioner with chargesheet on 23.04.1993 and decided to proceed further with the enquiry against him. The third respondent/Management constituted three member Enquiry Committee to conduct the enquiry. The petitioner subjected himself in the enquiry proceedings. However, without following due process of law and violating the principles of natural justice, the Enquiry Committee submitted a report on 23.08.1993. After serving copies to the petitioner on 11.10.1993, again the petitioner was called upon to give explanation. Accordingly, the petitioner submitted his explanation on 25.10.1993. Without considering the said explanation, the petitioner was dismissed from service by the third respondent proceedings in Ref.No.2720/E1/92 dated 06.12.1993. As against the dismissal order, the petitioner filed a writ petition in W.P.No.10756/1994 before this court challenging the abovesaid termination order. This Court, on 17.07.2001 allowed the writ petition and remitted the matter back to the third respondent for fresh enquiry, taking note of passage of time, nearly one decade from the alleged unauthorised absence of the petitioner viz., from 06.12.1991 to 28.02.1991 and from 21.12.1992 to 25.12.1992. Accordingly, petitioner was permitted to make a representation to the third respondent, to drop all further action on the said charges within thirty days from the date of receipt of a copy of the order, who shall consider the same and pass appropriate orders, on merits, within eight weeks from the date of receipt of such representation.

3. Aggrieved by the said order, the third respondent/Management has filed an appeal before this court in W.A.M.P.No.1272/2001 with a delay. The Writ Appeal was dismissed

in the condone delay stage itself. Inspite of the same, the petitioner made a representation to the third respondent which was also not considered by the third respondent. Thereafter, petitioner has challenged the impugned order passed in W.P.No.10756/1994 dated 17.07.2001.

4. Heard both sides.

5. Learned counsel for the third respondent/Management would submit that on instructions, the Management is willing to offer employment to the petitioner without any backwages.

6. Learned counsel for the petitioner accepts his offer for reinstatement without any backwages with the condition that the petitioner is entitled for continuity of service and other service benefits.

7. The third respondent, without application of mind, has passed an impugned order on 31.05.2006 against the order of this Court in W.P.No.10756/1994 dated 17.07.2001, which is unsustainable in law.

8. In view of the concession made by the learned counsel for the third respondent and the same being accepted by the learned counsel for the petitioner, the impugned order is set aside and the writ petition is disposed of in the above terms. The offer made by the learned counsel for the third respondent has to be complied with, within a period of six weeks from the date of receipt of a copy of this order.

In the result, the writ petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

gv

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

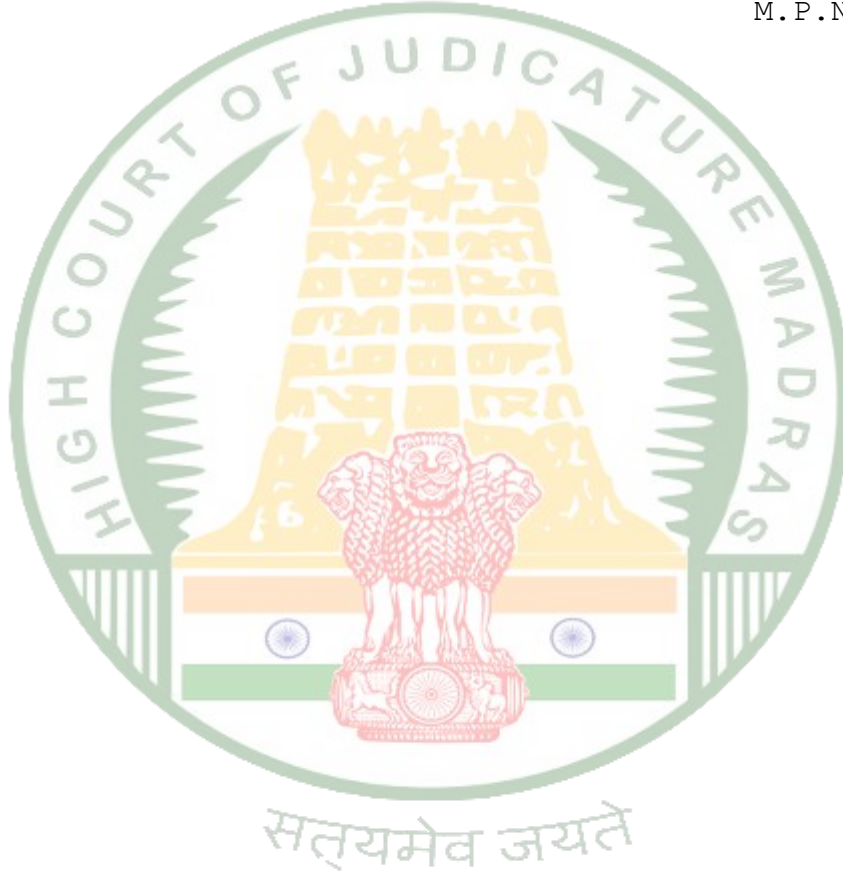
1.The Secretary to Government
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2. The District of Technical Education,
Anna University,
Chennai.

+1cc to Mr.K.Selvaraj, Advocate Sr.No.27654
+2cc to Mr.G.Muthukrishnan, Advocate Sr.No.27405

Sr(co)
sm:25.4.2018

W.P.No.23057 of 2006
and
M.P.No.1 of 2006



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