



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.11.2018

CORAM:

THE HONOURABLE DR.JUSTICE **G. JAYACHANDRAN**

W.P(MD)No.12461 of 2018

and

W.M.P(MD)No.11322 of 2018

T.J.Jeyakumar,
Secretary/Correspondent,
Virudhunagar Hindu Nadars'
Senthikumara Nadar College,
Virudhunagar,
Virudhunagar District.

[T.J.Jeyakumar substituted as petitioner
vide order dated 29.10.2018 made in
W.M.P(MD)No.19254 of 2018].

.. Petitioner

Vs.

1. The Director of Collegiate Education,
College Education/Higher Education Department,
Chennai.
2. The Joint Director of Collegiate Education,
College Education Department,
Madurai Region, Madurai.

3.A.Sivanantham

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the impugned order passed by the first respondent herein in his proceedings in Moo.Mu.No.51494/G4/2016 dated 31.05.2018 and quash the same as illegal and further direct the first respondent herein to rehear the appeal filed by the petitioner management within a time stipulated by this Court.

For Petitioner	: Mr.V.Meenakshisundaram
For Respondents 1 and 2	: Mr.A.Muthukaruppan, Additional Government Pleader.
For Respondent No.3	: M/s.A.Rajini

ORDER

This writ petition has been filed praying to call for the records of the impugned order passed by the first respondent herein in his proceedings in Moo.Mu.No.51494/G4/2016, dated 31.05.2018, quash the same as illegal and further direct the first respondent herein to rehear the appeal filed by the petitioner management by way of issuing a writ of certiorarified mandamus.



2. Heard the learned counsel appearing for the petitioner, learned Additional Government Pleader representing the respondents 1 and 2 as well as the learned counsel appearing for the third respondent.

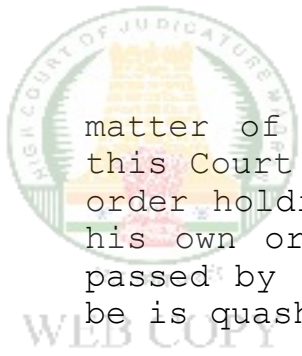
3. The short point involved in this writ petition is that the third respondent who joined as Sweeper in the petitioner institution, was subsequently promoted as Library Assistant in the year 1998 and later as Lab Assistant in the year 2001. Finally, he was promoted as Junior Assistant on 07.04.2010. The third respondent having been promoted as Junior Assistant, was asked to qualify himself in computer knowledge, which he failed. Hence, disciplinary proceedings have been initiated against him and he was removed from service. However, the said order passed by the petitioner management was not acceptable to the second respondent due to excessive punishment. Hence, the matter was remanded back for reconsideration.

4. The petitioner management reconsidered the disciplinary proceedings initiated against the third respondent and imposed punishment of reduction of rank to the post of sweeper. The said proposal was sent to the second respondent and the same was accepted and order sanctioning salary to the third respondent payable for a sweeper, was ordered on 03.08.2016.

5. The third respondent has preferred a review application before the second respondent to reconsider the punishment imposed on him. The second respondent has entertained the review application and modified the punishment of reduction of rank to the post of Sweeper as reduction of rank to the post of Lab Assistant, which is one rank below the post of Junior Assistant, which the third respondent holding at the time of initiating disciplinary proceedings.

6. From the records, it appears that the management aggrieved by the order modified by the second respondent, has preferred appeal before the first respondent. The third respondent herein has filed a writ petition before this Court challenging the modification order passed by the second respondent in the review application. This Court vide order dated 02.03.2018 in W.P(MD)No.1315 of 2013 filed by the third respondent, has pointed out the illegality of entertaining review application by the second respondent and has directed the parties to approach the first respondent if they are aggrieved by the order. Accordingly, the writ petitioner as well as third respondent have submitted their respective cases before the first respondent. The first respondent vide order dated 31.05.2018 after considering the facts of the case has passed the impugned order confirming the order passed by the second respondent dated 02.11.2016, which is the order passed by the second respondent in the review application of the third respondent.

7. It is pertinent to point out at this juncture that this order now been confirmed by the first respondent, was the subject



matter of the writ petition filed by the third respondent before this Court in W.P(MD)No.1315 of 2018 and this Court has quashed that order holding that the second respondent has no authority to review his own order. While so, the impugned order confirming the order passed by the second respondent is *per se* illegal and is liable to be is quashed.

8.The learned counsel appearing for the third respondent would submit that though the first respondent has observed that the order of the second respondent is confirmed in fact he has considered the gravity and excessive punishment imposed on the third respondent and only after assigning the reason, has confirmed the order of the second respondent passed in the review application.

9.This submission has no legs to stand when the impugned order in clear terms would say that it confirms the order passed by the second respondent dated 02.11.2016 which is *non-est* in law in view of the order passed by the High Court in W.P(MD)No.1315 of 2018. Therefore, the order passed by the first respondent dated 31.05.2018 is quashed.

10.In the result, the writ petition is allowed. The order dated 31.05.2018 passed in Moo.Mu.No.51494/G4/2016 by the first respondent is hereby quashed and the matter is remanded back to the first respondent. The first respondent is hereby directed to hear the appeal afresh after giving notice to both the parties and pass appropriate orders in accordance with law within a period of sixty days from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1. The Director of Collegiate Education,
College Education/Higher Education Department,
Chennai.
2. The Joint Director of Collegiate Education,
College Education Department,
Madurai Region, Madurai.

+1cc to Mr.D.Nallathambi, Advocate Sr.No.95161
+1cc to Spl.Government Pleader Sr.No.95202

SMN

VB/PM/SAR4/07.12.2018/3P/5C