

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2019

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Writ Petition No.3381 of 2018
& WMP No.4135 & 4136 of 2018

Dr. P.Devadas Manoharan ... Petitioner
Vs.

The Registrar, Anna University,
Anna University Campus,
Sardar Patel Road, Chennai 600 025 ... Respondent

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the entire records relating to the impugned charge memo No.30181/PR11/1992, dated 01.02.2018 of the respondent and to quash the same.

For Petitioner : Mr. S.Saravanan
For Respondents : Mr. L.P.Shanmugasundaram

ORDER

This writ of certiorari has been filed seeking to quash the impugned charge memo dated 01.02.2018, on the ground that the Registrar of the University has no competency to issue the charge memo to the Vice Chancellor.

2. By the impugned charge memo, the Registrar of Anna University / the respondent has issued the charge memo to the petitioner, who is the erstwhile Vice Chancellor.

3. The allegation against the petitioner is that the petitioner had committed certain irregularities in adopting the recruitment procedure and had violated the rules and norms prescribed by the UGC, for the recruitment of faculties at Anna University of Technology, Trichy. This incident is said to have taken place about seven-and-half-years ago.

4. The respondent has filed the counter stating that the petitioner was appointed as Vice Chancellor of Anna University of Technology, Tiruchirappali, for a period of three years from 16.07.2010 and as per rules, his position ceased on 31.07.2012; the petitioner, after ceasure (of office), reported for duty in his original position as Professor on 01.08.2012; based on the report of Investigating authority, dated 06.11.2013, the Government directed the University to take appropriate action against the petitioner for the alleged irregularities in adopting recruitment

procedures towards recruitment of faculty at Anna University of Technology, Trichy; the reports of the Internal audit, monitoring committee, the Joint Secretary and Security Committee constituted by the Anna University and the high level committee constituted by the Syndicate of Anna University, Chennai, revealed that, out of 29 appointments, 13 appointments were found to be improper; as per the directions of the Government and based on the reports of the DVAC, action has been initiated against the petitioner by issuing charge memo dated 01.02.2018 and explanation has been called for.

5. The counter has described in-detail, the nature of charges against the petitioner, but it does not explain how the Registrar is competent to issue the charge memo as against the erstwhile Vice Chancellor, which is the main issue canvassed in this writ petition.

6. The main contention raised by the learned counsel appearing for the petitioner is that the Registrar has no competency to issue the charge memo and solely on that ground, charge memo is liable to be quashed.

6.1. The learned counsel appearing for the petitioner relied

upon Section 11 (4-A) of the Anna University Trichirappalli Act, 2006, which reads thus:-

"(4-A) The Vice-Chancellor shall not be removed from his office on the ground of willful omission or refusal to carry out the provisions of this Act, or abuse of the powers vested in him except by an order of the Chancellor passed after due enquiry ordered by the Government, ***by such person who is or has been, (i) a Judge of the High Court; or (ii) an officer of the Government not below the rank of Chief Secretary to Government; or (iii) a Vice-Chancellor of any University in the State of Tamil Nadu, as may be appointed by the Government in which the Vice-Chancellor shall have an opportunity of making his representation against such removal.***"

6.2. A perusal of the provisions of Section 11 (4-A) of the Act would reveal that the enquiry has to be conducted either by the Officer of the Government not below the rank of Chief Secretary to the Government or Vice Chancellor of any University or a Judge of the High Court. The order of removal can be passed only by the Chancellor based on the enquiry report and after giving an opportunity of hearing to the Vice Chancellor against such removal.

Therefore, these provisions would make it clear that the charge memo cannot be issued by the Registrar of the University.

7. Yet another contention raised by the learned counsel for the petitioner is that it is only the syndicate along with the Vice Chancellor who is incharge of selecting the Assistant Professors and others and when the appointment was in the year 2010, the belated charge memo after the lapse of 7 and ½ years as if the petitioner alone is exclusively responsible for the appointment is not proper and on this ground it is liable to be quashed.

7.1. The learned counsel for the petitioner takes support from Section 22 (aa) (i) of the said Act, 2006. It is specifically pointed out that any appointment of Assistant Professor or non-teaching staff shall be made only by the Syndicate of the University consisting of Ex-Officio Members such as Secretary to Government – Incharge of Higher Education / Incharge of Industries / Incharge of Information Technology / Incharge of Law and the Director of Technical Education and the other members of the syndicate.

7.2. It is not explained as to why charges have not been framed as against others and it is not known why the petitioner alone has been singled out.

8. Hence the charge memo is liable to be quashed for want of jurisdiction on the part of the Registrar of Anna University.

9. In the result, the impugned charge memo No.30181/PR11/1992, dated 01.02.2018 passed by the respondent is hereby quashed. However, it is open to the authorities concerned to take action against all the concerned persons, in accordance with law. The writ petition is ordered accordingly. No costs. Consequently, the connected WMPs are closed.

09.01.2019

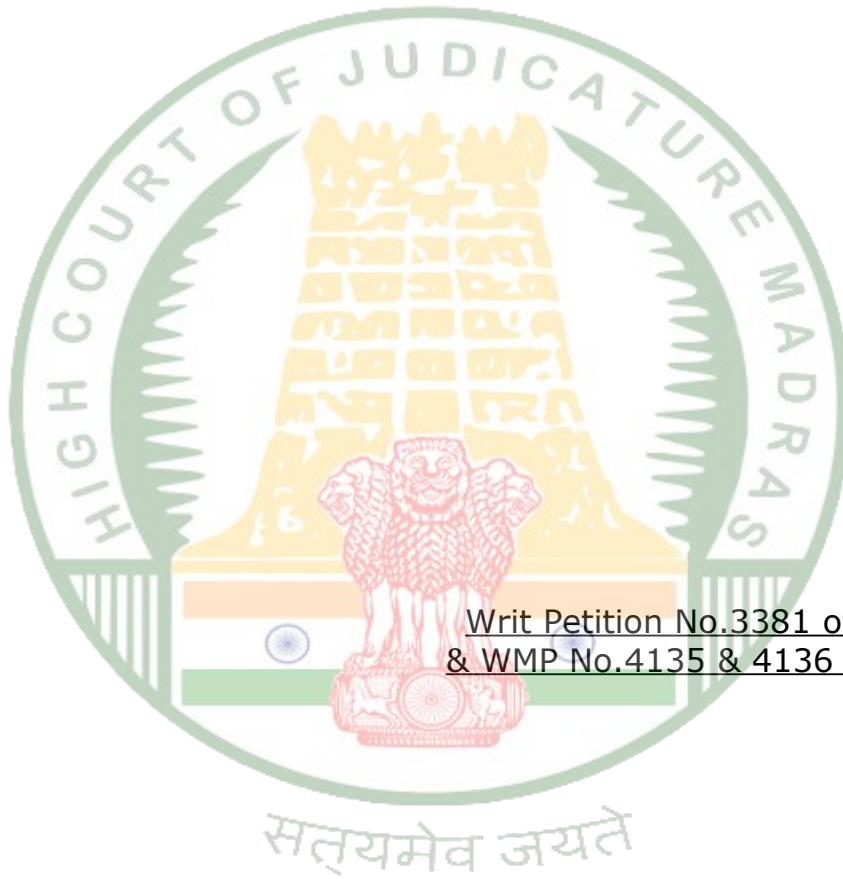
Index : Yes / No
Web : Yes / No
Speaking order / Non speaking order
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To

1. The Registrar, Anna University, Anna University Campus,
Sardar Patel Road, Chennai 600 025

Dr. S.VIMALA, J.,

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