

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2019

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Contempt Petition No.412 of 2019

And

W.P.No.31645 of 2018

And

W.M.P.No.36885 of 2018

Contempt Petition No.412 of 2019:

M.Ravi

... Petitioner

Vs.

Dr.Ramachandran Ph.D
The Registrar,
Annamalai University,
Annamalai Nagar,
Chidambaram.

... Respondent

Prayer :

Contempt petition filed under Section 11 of Contempt of Courts Act read with Article 215 of the Constitution of India, praying to direct the respondent to comply with the order made in W.P.No.31645 of 2018 dated 04.12.2018 failing which to punish the respondent under Section 11 of the Contempt of Court Act R/W Article 215 of the Constitution of India for willful disobedience of the order made in the above writ petition.

For Petitioner : Mr.V.P.Rajendran

For Respondent : Mr.K.Sathish Kumar

W.P.No.31645 of 2018:

M.Ravi

... Petitioner

Vs.

1.The Registrar,
Annamalai University,
Annamalai Nagar,
Chidambaram.

2.The Director,
Directorate of Distance Education,
Annamalai Nagar,
Chidambaram.

3.The Secretary to Government,
Government of Tamil Nadu,
Fort St.George,
Chennai 600 009.

... Respondents

Prayer :

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in respect of University Order No.422/2014(C) dated 02.06.2014 passed by the Registrar, Annamalai University, Annamalai Nagar, Chidambaram, the 1st respondent herein and quash the same and consequently to direct the respondents to reinstate the petitioner with all service and attendance benefits with effect from 02.06.2014 along with subsistence allowance from 02.06.2014 to 02.05.2018.

W.M.P.No.36885 of 2018

M.Ravi, T.NHo.14863,
Asst. Professor Tamil Wing
(Now under Suspension),
No.12/33 Sathapadi Street,
Chidambaram.

...Petitioner

VS

- 1 The Registrar
Annamalai University,
Annamalai Nagar,
Chidambaram.
- 2 The Director,
Directorate of Distance Education,
Annamalai Nagar, Chidambaram.
- 3 The Secretary to Government,
Government of Tamil Nadu,
Fort St.George,
Chennai 600 009.

...Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to to pass interim direction directing the respondents 1 and 2 to pay subsistence allowance from the date of suspension i.e 02/06/2014 to 02/05/2018 within stipulated period pending disposal of the above Writ Petition.

For Petitioner : Mr.V.P.Rajendran

For Respondents : Mr.K.Sathish Kumar

C O M M O N O R D E R

The contempt petition has been filed alleging willful disobedience of the order dated 04.12.2018 made in W.P.No.31645 of 2018.

2.The writ petition has been filed seeking issuance of Writ of Certiorarified Mandamus calling for the records in respect of University Order No.422/2014(C) dated 02.06.2014 passed by the Registrar, Annamalai University, Annamalai Nagar, Chidambaram, the 1st respondent herein and to quash the same and to consequently direct the respondents to reinstate the petitioner with all service and attendance benefits with effect from 02.06.2014 along with subsistence allowance from 02.06.2014 to 02.05.2018.

3.The case of the petitioner is that based on the FIR sent by the Inspector of Police under Section 174 of Cr.P.C. altered to under Sections 302, 201 and 120B of IPC, in a suspicious death complaint filed in Pudupalayam Police Station, Tiruvannamalai District, he was placed under

suspension while he was working as Assistant Professor, Tamil Wing, Directorate of Distance Education on 02.06.2014. Though the petitioner was suspended in the year 2014, he was not reinstated into service and hence the petitioner made representation seeking reinstatement to the respondent on 23.12.2015 and since the same was not considered, the petitioner has filed this writ petition.

4.The learned counsel appearing for the petitioner would submit that since the petitioner was not reinstated into service and since the subsistence allowance also was not paid upto May, 2018, the petitioner filed the writ petition. This Court vide order dated 04.12.2018 made in W.P.No.31645 of 2018 and W.M.P.No.36885 of 2018 by way of interim order, ordered to pay the subsistence allowance due to the petitioner within a period of two weeks from the date of receipt of a copy of that order and since that order also was not complied with by the respondents, the petitioner filed the contempt petition.

5.The learned counsel appearing for the respondents would submit that the subsistence allowance has been

regularly paid from May, 2018 onwards and would further submit that steps are being taken to pay the arrears amount. He would further submit that pursuant to the interim order dated 04.12.2018, The Registrar, Annamalai University, Annamalai Nagar, Chidambaram, has granted a sum of Rs.3 Lakhs in favour of the petitioner on 25.09.2019.

6.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

7.The issued involved in the present writ petition is whether the Authority has power to pass suspension order pending criminal case or not?

8.This Court is unable to go into the merits of the allegations made by the petitioner. So long as the power of suspension is available with the respondent and it has been exercised by the competent Authority, the Court cannot go behind the order of suspension.

9.The Supreme Court in its decision reported in **1990 (3) SCC 60 (Director General and Inspector General of Police, Andhra Pradesh, Hyderabad and others Vs. K.Ratnagiri)** has held in paragraph 7 as follows:

"7....The Rule 13(1) empowers the authority to keep the respondent under suspension pending investigation or enquiry into the criminal charges where such suspension is necessary in the public interest. When the first information report is issued, the investigation commences and indeed it has commenced when the respondent was kept under suspension. The order of suspension cannot, therefore, be said to be beyond the scope of Rule 13(1) merely because it has used the word 'prosecution' instead of investigation into the charges against the respondent. A wrong wording in the order does not take away the power if it is otherwise available. The Tribunal seems to have ignored this well accepted principle."

Further, it was observed in paragraph 3 as follows:

"3....The government may review the case and make further or other order but the order of suspension will continue to operate till it is rescinded by an appropriate authority."

10.Once again, the Supreme Court vide its decision reported in **1994 (2) SCC 617 (State of Haryana Vs. Hari Ram Yadav and others)** has held in paragraph 10 as follows:

"10....The law is well settled that in cases where the exercise of statutory power is subject to the fulfilment of a condition then the recital about the said condition having been fulfilled in the order raises a presumption about the fulfilment of the said condition, and the burden is on the person who challenges the validity of the order to show that the said condition was not fulfilled. In a case, where the order does not contain a recital about the condition being fulfilled, the burden to prove that the condition was fulfilled would be on the authority passing the order if the validity of the order is challenged on the ground that the condition is not fulfilled...."

Further, in paragraph 11 of the judgment, it was observed as follows:

"11....There is no averment in the said petition challenging the validity of the impugned order of suspension on the

ground that the Governor of Haryana was not satisfied that it was either necessary or desirable to place Respondent 1 under suspension. In the absence of any such averment it must be held that the impugned order was passed after fulfilling the requirement of Rule 3(1) of the Rules in view of the presumption as to the regularity of official acts which would be applicable and the absence of a recital in the order about the Governor being satisfied that it was either necessary or desirable to place respondent 1 under suspension is of no consequence...."

11. In the light of the above, the writ petition filed by the petitioner is misconceived and deserves to be dismissed. Accordingly, the writ petition shall stand dismissed.

12. However, it is open to the petitioner to seek a review of the order of suspension and payment of subsistence allowance by making a representation before the competent Authorities and if such a representation is made, it is needless to state that the Authorities will consider

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And
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the said representation and pass orders on the same in accordance with law.

13.The writ petition is accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

14.In view of the dismissal of the writ petition, nothing survives for adjudication in the contempt petition. The contempt petition is accordingly closed. However, it is open to the petitioner to work out the remedy for payment of subsistence allowance separately, if so advised.

SD/-
ASSISTANT REGISTRAR (COMM.CASES)
pri

//Certified to be true copy//

Dated at Madras this the day of 2019.

सत्यमेव जयते COURT OFFICER (O.S.)

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Smi/24/10/2019

To

1. The Registrar,
Annamalai University,
Annamalai Nagar,
Chidambaram.
2. The Director,
Directorate of Distance Education,
Annamalai Nagar,
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3. The Secretary to Government,
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