

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 08.03.2019

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.32817 of 2012

I.K.Manikandan

... Petitioner

Vs

1. The Chairman
University Grant Commission,
New Delhi.
2. The Vice Chancellor,
J.S.S.University
J.S.S.Medical Institution Campus,
Sri.Shivarathriswara Nagar,
Mysore,
Karnataka.
3. The Principal
J.S.S.College of Pharmacy,
Rockland's
Ootacamund,
Nilgiri District.

... Respondents

PRAYER:

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records in respect of the termination order passed by the 3rd respondent in J.S.S.P/O.T/4592/2011-2012 dated 06.01.2012, and quash the same and consequently direct the 3rd respondent to reinstate the petitioner in service with all benefits.

For Petitioner : Mr.D.Rajagopal

For R2 & R3 : Ms.R.Anitha
For M/s.Ramasamy Associates.

R 1 : Dismissed, dated 15.12.2014.

ORDER

This Writ Petition has been filed by the writ petitioner I.K.Manikandan, challenging the impugned order dated 06.01.2012, passed by the third respondent. The petitioner claims that the order is totally unjustified and consequently, has filed the present writ petition, in the nature of Certiorarified Mandamus to call for the records and quash the said order.

2.The petitioner was appointed as Librarian in the third respondent College, namely, J.S.S.College of Pharmacy, at Ooty on 13.07.2005. In the affidavit filed in support of the writ petition, he had stated that his service were confirmed on 13.07.2007. He further claimed that he had discharged his duties without any adverse remarks.

3.The learned counsel for the petitioner drew the attention of this Court to a memo issued to the petitioner on 29.09.2011. The memo is quoted below for ready reference:

Memo

"This is to bring to your notice that you are not able to cope up with your normal duties in the Library and you are confusing every thing in the day-to-day work. You are not able to maintain any records properly nor submitting proper annual requirements of the Library to the University. In the last Library Committee meeting, you have failed to submit the details regarding the requirement of the Library towards books, journals, softwares, etc. The Library Committee members of the University have felt very bad regarding the way you presented in the meeting and you failed to submit the proper compliance of the Library committee meeting held. Hence, the Library work is not going very smoothly and you have messed up the entire administration of the Library.

Having all the problems, it is felt why can't we initiate disciplinary action against you. We call for explanation from you for your negligence of duty. You are directed to give your explanation to reach this office within 7 days from the date of issue of this Memo."

4.The writ petitioner had replied the same. In fact, the reply has also been filed as a document along with the typed set of papers. In the reply, he had stated that he had discharged all his duties to the satisfaction of all his superiors. The reply is also quoted below for ready reference:

"Sub: Explanation for the Memo.

Ref: Your Memo 1r JSSCP/OT/2786/2011-1 dated 29.09.2011.

1.All the records in the library were maintained properly, which can be verified at any point of time. They are updated.

2.The annual requirements of the faculty members regarding the requirement of the Books & Journals was submitted to the university and are as follows:

A. As per the request of the faculty members for the books & Journals quotations from single vendor was submitted along with a 20% discount for all the books. Only for the remaining 9 Books quotation are yet to be received. The process is in progress.

B. Regarding Purchase of Books 3rd committee approved Books were obtained and settled the payment after the 4th library committee this is the publishers delay of services.

C. Request for the bar coding system was submitted

Regarding the bar coding system, as per our A.O. Sir advice the quotation was obtained from BSC Barcode systems and Consultancy Bangalore. They have already installed the bar coding in J.S.S.Pharmacy college Mysore.

D.Request for the E Books, Soft copy books, Binding and printing was already submitted. (Request was made by the Pharmaceutical Department)

3.With respect to the Library Automation we have done the Classification and Data entries of 10,300 Books apart from the regular work.

4.During the discussion in the committee meeting I have expressed about the requirement of the man power in our library. I apologise for the matter that I discussed it in the meeting about the man power with Vice-Chancellor Sir. Please kindly excuse me for the same.

5.I am sorry to inform you that Mr.Sadasivappa who is our library Assistant is not co-operating with me in the day to day library work.

To the best of my knowledge and belief I have done my duty. Kindly, excuse me if I have done any mistakes knowingly or unknowingly. I assure you sir, that I will discharge all my duties to the entire satisfaction of all my superiors. With these explanation I am submitting to you and request you to kindly do the needful."

5. Very unfortunately, and very surprisingly, the third respondent, though the writ petitioner was an employee in regular service, thought it fit to pass the impugned order as follows:

"JSSCP/OT/4592/2011-12
Mr. I. K. Manigandan
Librarian
JSS College of Pharmacy
Ooty

January 6, 2012

"TERMINATION ORDER

Under the directions of the JSS University, Mysore, it is hereby informed that your services in the institution as Librarian is terminated with 3 months notice from 30.12.2011.

Kindly sign on the duplicate of this letter for having received the same.

PRINCIPAL"

6. It is clear that all Principles of Natural Justice had been denied to the petitioner. The petitioner was asked to give an explanation. He gave an explanation. There is no mention in the impugned order that his explanation was considered and either accepted or rejected. He had not been granted an opportunity to put forth his case. He was also not granted a fair hearing much less, an oral hearing before the respondents. They simply terminated his services and then informed him that his services in the institution as Librarian is terminated with three months' notice.

7. The Principles of Natural Justice requires that an employee is heard and is granted opportunity to put forth his case and an enquiry should be conducted. Charges should have been framed. An Enquiry Officer must be appointed, who must state the nature of the charges and the documents filed to support the charges and also the witnesses who are tender evidence to support the charges and also the list of documents relied on. The delinquent must also be given an opportunity to give written explanation to the charges. He must also be specifically enquired whether he requires an oral hearing to dispute the charges.

8. In this case, the respondents have not produced any material to show that the explanation of the petitioner was rejected and that charges have been framed and that an Enquiry

Officer had been nominated and that the petitioner participated in the enquiry. Throwing to winds the entire procedure required to uphold the Principles of Nature Justice, very unfortunately, the third respondent had issued the impugned order which in just about two lines informed the petitioner that his services had been terminated. I have no hesitation to set aside the impugned order and to direct the respondents to immediately reinstate the petitioner to service with all attendant benefits from the date of termination till date of reinstatement.

9. The learned counsel for the respondents, however stated that the petitioner is a sick person and in reality, could not discharge his duties as Librarian. She stated that he had a kidney transplant and cannot discharge his duties to the expectations expected.

10. The learned counsel for the petitioner, on the other hand drew the attention of this Court to the minutes of the 6th Library Committee meeting held on 12.01.2011, subsequent to the order for termination wherein, the services of the Librarian had been much appreciated. The committee had actually recorded in the minutes as follows:

"AGENDA - 6.6

Presentations on the developmental activities in the constituent college libraries.

The Librarians presented their developmental activities through power point presentations. The committee appreciated the librarians of the constituent colleges for their commendable work. In this regard Registrar congratulated all the librarians.

The Vice Chancellor suggested the librarians to share their knowledge and experiences and work together for the betterment of the libraries."

11. After putting the petitioner on notice that he is to be terminated, a relieving order was also issued to him. The relieving order is as follows:

"With reference to JSS University Order No.REG/EST-II(2)/CPO/45/2011-12 dated 30.12.2011, you are hereby relieved from your duties with effect from the afternoon of 29.03.2012."

No adverse remarks have been mentioned in the relieving order. However, the learned counsel for the respondents still maintained that the petitioner would not be able to discharge the duties expected of him.

12. I do not give much credence to that argument. Those aspects should have been put to the petitioner in the form of

charges and an enquiry should have been conducted. The respondents have to fall on their own sword.

13. The respondents are directed to reinstate the petitioner within a period of four weeks from the date of receipt of a copy of this order, since the termination order is set aside by this Court. Thereafter, the respondents, may also offer him an alternate employment. It is also to be noted that the learned counsel for the petitioner pointed out that the petitioner is qualified in Doctorate in Library Science and therefore, it would be only in the interest of respondents that he retains in the post of Librarian. With these observations, the Writ Petition is allowed. No costs. The order of this Court is passed in the presence of the learned counsels for both the petitioner and the respondents.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

smv

1. The Chairman
University Grant Commission,
New Delhi.
2. The Vice Chancellor,
J.S.S.University
J.S.S.Medical Institution Campus,
Sri.Shivarathriswara Nagar,
Mysore, Karnataka.

+1cc to M/s.Ramasamy Law Associates, Advocate, S.R.No.22353

+1cc to Mr.D.Rajagopal, Advocate, S.R.No.22322

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VBA (CO)
CS/03/04/2019