

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.18322 & 18327 of 2019

and

W.M.P.Nos.17676 & 17677 of 2019

G.Muthu Kumara Sami,
S/o.K.Govinda Sami,
4/71-G, K.K.Street,
Kuruguputhur,
Tharamgampadi Taluk-609 107,
Nagapattinam District. ... Petitioner in both W.Ps.

-vs-

- 1.The Director of Collegiate Education,
E.V.K. Sampath Maligai,
College Road, Chennai-600 006.
- 2.The Joint Director of Collegiate Education,
Office of the Regional Joint Director,
Tanjavur-613 005.
- 3.The Secretary and Correspondent (HR &CE),
Poompuhar College (Autonomous),
Melayur-609 107,
Nagapattinam District. ... Respondents in both W.Ps.

Prayer in W.P.No.18322 of 2019:- Petition under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the 3rd respondent in Proceedings No.A/27/2015 dated 06.03.2015 and to quash the same as illegal and against Sections 14(1)(c) and 19(3)(a) and (b) of the Tamil Nadu Private Colleges (Regulations) Act, 1976.

Prayer in W.P.No.18327 of 2019:- Petition under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the 3rd respondent in Proceedings No.A/27/2015 dated 27.03.2015 and to quash the same as illegal and against Section 14(1)(c) of the Tamil Nadu Private Colleges (Regulations) Act, 1976.

For Petitioner : M/s.K.M.Vijayan Associates
(In both W.Ps.)

For Respondents : Mr.V.Kadirvelu,
(In both W.Ps.) Special Government Pleader

COMMON ORDER

These writ petitions have been filed by the petitioner for issuance of Writ of Certiorari to call for the records of the 3rd respondent in Proceedings No.A/27/2015, dated 06.03.2015 and 27.03.2015 respectively, and to quash the same.

2.Heard the learned counsel on both sides.

3.With consent, this writ petition is taken up for final disposal.

4.The case of the petitioner is that the petitioner was appointed as Lecturer, Tamil Department under the 3rd respondent-college by the orders of the 3rd respondent-college dated 06.01.2009. Subsequently, he was promoted as Assistant Professor, Tamil Department. While so, on 18.02.2015, a show cause notice was issued to the petitioner by the Principal of the 3rd respondent-college to attend an enquiry. In the said enquiry, the petitioner has given his written explanation to the Principal. However, without considering the explanation given by the petitioner, the 3rd respondent issued suspension order dated 06.03.2015, invoking Rule 17E of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The petitioner was also served with a charge memo dated 27.03.2015, by the 3rd respondent. Even though the petitioner is entitled to get subsistence allowance as per the suspension order dated 06.03.2015, the 3rd respondent failed to pay any amount till date. Hence, the present writ petitions.

5.The learned counsel for the petitioner submitted that till date the suspension order has not been revoked and no subsistence allowance was paid to the petitioner. He further submits that as per Sections 19(3)(a) and 19(3)(b) of the Tamil Nadu Private Colleges (Regulations) Act, 1976, no teacher or other employed person shall be suspended for more than 2 months and if, the competent authority intends to extend the period of suspension, reasons have to be recorded in writing. But in the instant case, the petitioner was suspended on 06.03.2015 and the period of suspension would come to an end on 06.05.2015 and as per the knowledge of the petitioner, there is no extension order for the suspension. At any event, the continuation of enquiry till date, based on charge memo dated 27.03.2015, is in violation of the said provision.

6.The learned counsel appearing for the petitioner however, would submit that it would suffice, if this Court issues direction to the 3rd respondent to consider the petitioner's representation dated 17.01.2017, within a stipulated time frame.

7.Considering the limited request made by the petitioner, and without interfering with the impugned order of suspension, this Court directs the 2nd respondent to consider the petitioner's representation dated 17.01.2017. To be noted, the petitioner was placed under suspension for more than 4 years. For ready reference, the petitioner is therefore directed to send a copy of the representation dated 17.01.2017, along with a copy of this order to the 2nd respondent to enable him to pass appropriate orders. On receiving the same, the 2nd respondent shall pass orders on merits and in accordance with law within a period of twelve weeks' from the date of receipt of such representation.

8.With the above direction, these writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

abr

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Director of Collegiate Education,
E.V.K. Sampath Maligai,
College Road, Chennai-600 006.
- 2.The Joint Director of Collegiate Education,
Office of the Regional Joint Director,
Tanjavur-613 005.
- 3.The Secretary and Correspondent (HR &CE),
Poompuhar College (Autonomous),
Melayur-609 107,
Nagapattinam District.

+2cc to M/s.K.M.Vijayan Associates, Advocate, SR.No.85146 & 95147

W.P.Nos.18322 & 18327 of 2019

Kak(18/11/2019)