

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2019

CORAM:

THE HON'BLE MR.JUSTICE M. DHANDAPANI

W.P.No.28524 of 2019 and
W.M.P.Nos.28253 & 28254 of 2019

Dr.S.Srinivasan

... Petitioner

/Vs/

1.The Vice Chancellor,
Anna University,
Guindy, Chennai-600 025.

2.The Registrar (in-charge),
Anna University,
Guindy, Chennai-600 025.

3.V.Jayabalan
Enquiry Officer,
Anna University,
Chennai-600 025.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the issuance of the impugned order of the second respondent issued in Letter No.CFL/RO-MAD/PR26/2018, dated 05.09.2019 and quash the same and consequently to direct the second respondent to furnish the copy of the preliminary enquiry report to the petitioner within a reasonable period as may be fixed by this Court.

For Petitioner : Mr.T.Ranganathan

For Respondents: Mr.L.P.Shanmugasundaram

O R D E R

This writ petition has been filed by the petitioner, seeking for the issuance of Writ of Certiorarified Mandamus to call for the records relating to the issuance of the impugned order of the second respondent issued in Letter No.CFL/RO-MAD/PR26/2018, dated 05.09.2019 and quash the same and consequently to direct the second respondent to furnish the copy of the preliminary enquiry report to the petitioner within a reasonable period as may be fixed by this Court.

2. The petitioner was working as Professor in the Department of Computer Science Engineering at Anna University, Regional Campus, Madurai. While so, he was placed under suspension vide proceedings dated 27.12.2018 by the Registrar (in charge) of Anna University, the second respondent herein, for certain lapses. Thereafter, the second respondent issued a charge memo dated 21.05.2019 calling for explanation from the petitioner as to why disciplinary action should not be initiated against him. It appears that the petitioner has submitted his explanation on 31.05.2019 and requested to furnish the copy of the preliminary enquiry report and the documents relied upon by the disciplinary authority in regard to the charges as well as list of witnesses. According to the petitioner, there was no reply. However, by letter dated 14.06.2019 the petitioner was informed that his suspension was extended until further orders on the ground that the enquiry is under process and again by letter dated 18.06.2019 it was informed that the enquiry committee has submitted a preliminary enquiry report which requires further enquiry into the alleged matter and since further enquiry is underway, necessity does not arise at this stage, to furnish a copy of the preliminary enquiry report. Thereafter, the petitioner submitted a detailed representation to the second respondent pointing out that the charge memo does not contain imputations of misconduct, list of documents and list of witnesses and requested to furnish the copy of preliminary enquiry report and other documents. The petitioner has also requested the second respondent by his letter dated 01.07.2019 to sanction 75% of his last pay drawn as subsistence allowance since the suspension period was extended beyond the period of six months. In the meantime, the disciplinary authority has appointed an Enquiry Officer, who in turn sent a letter to the petitioner dated 10.07.2019 to appear before him for personal enquiry. The petitioner has replied by his letter dated 19.07.2019 pointing out certain defects in regard to appointment of an Enquiry Officer. While so, by letter dated 30.07.2019, the second respondent directed the petitioner to submit the explanation to the charge memo within seven days and also to appear before the enquiry committee on 30.07.2019, failing which, enquiry will be decided ex-parte in his absence and also if the petitioner fails to co-operate with the enquiry, his subsistence allowance would be reduced by 25%. Thereafter, the petitioner by his letter dated 02.08.2019 submitted his explanation reiterating his earlier demand of furnishing the copy of the preliminary enquiry report and other documents and to enhance subsistence allowance and also to permit him to have an advocate to defend his case. In response to the letter of the petitioner, the second respondent vide notice dated 13.08.2019 informed the petitioner that the preliminary enquiry report sought by him can very well be accessed during the course of enquiry and

insisted the petitioner to appear before the enquiry committee, failing which, to reduce 25% of the subsistence allowance. Thereafter, the petitioner has given reply by his letter dated 19.07.2019 pointing out certain defects in respect of the notice dated 13.08.2019. According to the petitioner, without considering his request made by him all along through his letters, the second respondent passed the impugned proceedings dated 05.09.2019, reducing the subsistence allowance by 25% w.e.f., 27.08.2019. Aggrieved by the same, the petitioner has come forward with the present writ petition.

3. On perusal of the entire materials placed before this Court, it appears that the petitioner, for certain lapses/irregularities, the petitioner was placed under suspension and disciplinary action was initiated by issuing charge memo against him. Right from the initiation of the disciplinary proceedings, the petitioner has been giving replies one after another, pointing out certain defects in respect of proceedings of the second respondent and as on date, he has not appeared before the Enquiry Committee and co-operated with the enquiry. All along, the petitioner has been demanding for furnishing of preliminary enquiry report and list of documents which support the charges framed against him. Since the petitioner has not been co-operating with the enquiry despite, specific communication to the petitioner, the second respondent was constrained to pass impugned proceedings dated 05.09.2019 reducing subsistence allowance by 25% w.e.f., 27.08.2019.

4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the materials placed on record.

5. Without advertting to the merits or demerits of the case, this Court feels it appropriate to direct the petitioner to co-operate with the enquiry and at the same time, the second respondent shall furnish the relevant documents to the petitioner and to complete the enquiry within a period of twelve weeks from the date of receipt of a copy of this order.

6. In such view of the matter, this Court is inclined to set aside the impugned order. Accordingly, the petitioner is directed to appear before the Enquiry Committee and co-operate with the enquiry without fail. The second respondent is directed to furnish the list of documents and a copy of the preliminary enquiry report to the petitioner forthwith and the enquiry shall be concluded within a period of twelve weeks from the date of receipt of a copy of this order. Since the enquiry itself is directed to be completed within a period of weeks, the impugned order reducing the subsistence allowance by 25% is hereby set aside.

7. With the above direction, the writ petition is disposed of.No costs. Consequently, connected W.M.P.Nos.28253 & 28254 of 2019 are closed.

Sd/-
Assistant Registrar(CJ conf)

//True Copy//

Sub Assistant Registrar

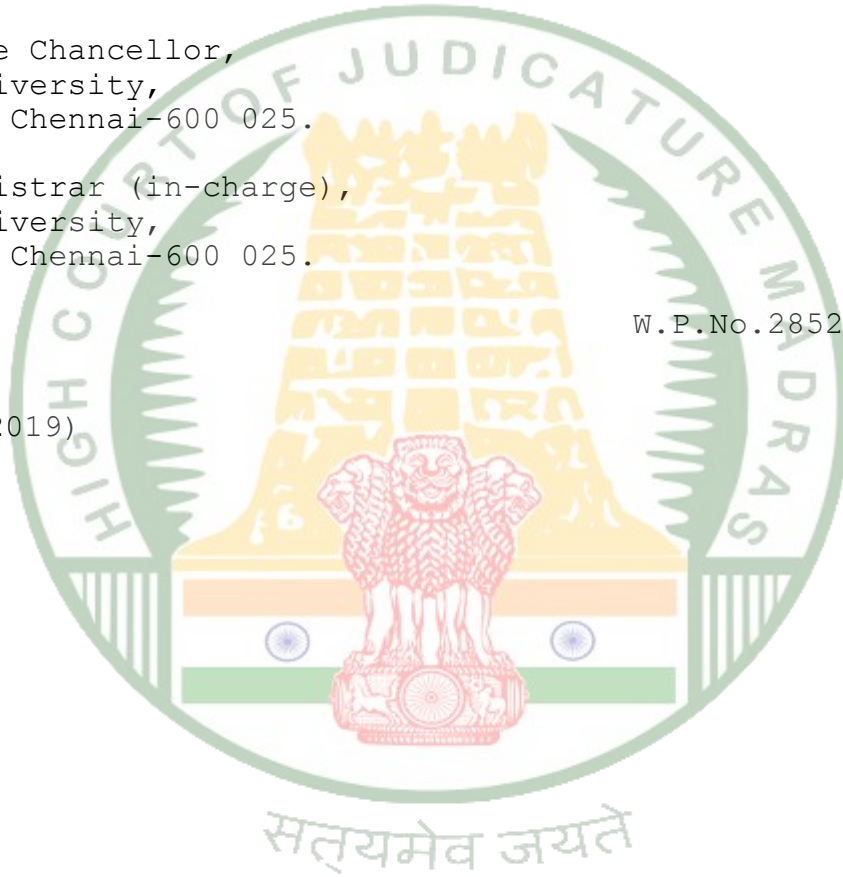
msm
To

1.The Vice Chancellor,
Anna University,
Guindy, Chennai-600 025.

2.The Registrar (in-charge),
Anna University,
Guindy, Chennai-600 025.

W.P.No.28524 of 2019

BS(CO)
CB(14/11/2019)



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