

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2020

CORAM :

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.Nos.17374, 17379, 17383 & 17385 of 2020 and
W.M.P.Nos.21535, 21539, 21545 & 21548 of 2020

- 1.C.Sakthivel ... Petitioner in W.P.No.17374 of 2020
2.R.Kanivannan ... Petitioner in W.P.No.17379 of 2020
3.Senthilkumar ... Petitioner in W.P.No.17383 of 2020
4.P.Krishnaveni ... Petitioner in W.P.No.17385 of 2020

-Vs-

- 1.Periyar University,
Rep by its Registrar,
Periyar University, Periyar Palgalai Nagar,
Salem 636 011.
2.The Vice Chancellor,
Periyar University, Periyar Palgalai Nagar,
Salem 636 011.
3.The Registrar In - Charge,
Periyar University, Periyar Palgalai Nagar,
Salem 636 011.
4.The Inquiry Officer,
Periyar University, Periyar Palgalai Nagar,
Salem 636 011. ... Respondents in all W.Ps

Prayer in all W.Ps : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to pay the petitioner 75% of his regular salary as subsistence allowance with effect from 29.04.2020, to permit him to take the assistance of an advocate during the course of the entire enquiry and to complete the enquiry in a time bound manner and within a specified time as may be fixed by this Court by providing all the documents and by providing him fair, reasonable and equal opportunity, award costs.

For Petitioners : Mr.V.Ajoy Khose
in all W.Ps

C O M M O N O R D E R

These writ petitions have been filed to direct the respondents to pay the petitioner 75% of his regular salary as subsistence allowance with effect from 29.04.2020, to permit him to take the assistance of an advocate during the course of the entire enquiry and to complete the enquiry in a time bound manner and within a specified time as may be fixed by this Court by providing all the documents and by providing him fair, reasonable and equal opportunity, award costs.

2. The petitioners herein are the employees of the first respondent University. Initially, they were appointed as NMR Workers and brought on consolidated pay in 2010. According to the petitioners they belonged to Trade Union and submitted a chart of demands to the University seeking various benefits. According to them, the Trade Union has also made a request to provide a protected workman status under the provisions of the Industrial Disputes Act to three workmen including one of the petitioners herein on 05.10.2018. In regard to the chart of demands, the Government has referred the dispute before the Industrial Tribunal, Chennai in O.P.No.9 of 2019.

3. While so, the petitioners were issued with the show cause notice dated 03.10.2019, charging them that they had given press meet during working hours by making baseless allegations against the Vice Chancellor of the University and thus violating the conduct rules applicable to the service conditions of the employees. The petitioners were therefore directed to submit their explanation. A further allegation was made on 04.10.2019 that the petitioners did not attend the Periyar Centenary Day. The petitioners sought time to submit their explanation and subsequently, they submitted their representations on 11.10.2019. After conducting a preliminary enquiry, the petitioners were also placed under suspension on 29.10.2019. There was also a conciliation, wherein, according to the petitioners, the University was advised to revoke the suspension order and reinstate the petitioners in November 2019.

4. The petitioners in the meanwhile, have also approached this Court by separately filing writ petitions questioning the order of suspension passed in October 2019. This Court, in the writ petitions, issued direction on 19.12.2019 to the University to review the suspension order within the stipulated time. The University however issued notice to these petitioners on 30.01.2020 directing them to appear before the Enquiry Officer for enquiry on

06.02.2020. On receipt of the direction to appear before the Enquiry Officer, the petitioners appeared to have submitted representations on 13.02.2020, seeking postponement of the enquiry proceedings till the decision was taken by the University to review the order of suspension in terms of the directions of this Court in the above said writ petitions.

5. Simultaneously, a request was made to the Enquiry Officer by these petitioners to permit them to engage a lawyer to assist them in the enquiry on the ground that they were not well versed in law. Finally on 08.09.2020, the University refused to revoke the suspension order. The petitioners have also made representations for enhancement of subsistence allowance and the said representations also said to be pending before the University. In these circumstances, these writ petitions have been filed seeking direction to the University to permit the petitioners to engage a lawyer and to pay subsistence allowance at the rate of 75% and also to conclude the enquiry expeditiously by providing them the documents and affording fair opportunity.

6. The learned counsel for the petitioners submitted that unless the direction sought is granted, the petitioners being the workers would suffer grave injustice as they would not be able to effectively defend their case. According to the learned counsel, the lawyer's assistance was mandatory since the workers would not be in a position to understand the contents of the charge and the legal implications of the enquiry proceedings. The workers are entitled to have an enhanced payment of subsistence allowance and entitled to be given fair opportunity in the enquiry.

7. This Court is not inclined to entertain these writ petitions for more than one reason. First of all, such omnibus prayers are not maintainable literally asking this Court to intervene in the disciplinary proceedings initiated against the employees from start to finish. The cumulative grievances of the petitioners from suspension, charge memo and the disciplinary proceedings initiated against them cannot be a subject matter of adjudication in one writ petition. Each of the issues viz., suspension, engagement of lawyer's service, extending fair opportunity in the enquiry and furnishing of documents, enhancement of subsistence allowance, is an independent cause of action, which cannot be clubbed together and rolled into one writ petition.

8. Even otherwise, this Court's extraordinary jurisdiction under Article 226 of the Constitution of India, cannot be invoked to issue a general guidelines or directives to the University as to how they should go about conducting the domestic or departmental enquiry against their employees. This Court also finds that the allegations against the petitioners are not complex that they cannot understand the nature of the charges and enquiry and therefore, demand for engaging the services of a lawyer, may not be justified at all. In any case, this Court without going into the merits and demerits of the claim, is of the view that such omnibus relief covering the entire gamut of domestic enquiry initiated by the University, is not maintainable on the basis of the self-serving averments and comprehensive direction as sought cannot be given by this Court. If such comprehensive directions were to be issued, it would amount to needless interference of this Court in the affairs of the respondent University and the University's right to deal with the employees as it deserves fit and proper.

9. For the above circumstances, these writ petitions are without merits and substance and hence dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

gsk

To

- 1.The Registrar,
Periyar University,
Periyar University, Periyar Palgalai Nagar,
Salem 636 011.
- 2.The Vice Chancellor,
Periyar University, Periyar Palgalai Nagar, Salem 636 011.
- 3.The Registrar In - Charge,
Periyar University, Periyar Palgalai Nagar,
Salem 636 011.
- 4.The Inquiry Officer,
Periyar University, Periyar Palgalai Nagar, Salem 636 011.
+4ccs to Mr. V.Ajoy Khose, Advocate SR.No.39853
39854,39855,39856
W.P.Nos.17374, 17379, 17383 & 17385 of 2020 and
W.M.P.Nos.21535, 21539, 21545 & 21548 of 2020

A.SK(09.03.2021)