

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.12.2020
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.16553 & 30898 of 2014
and
M.P.Nos.1,1,2 and 2 of 2014

Dr.R.Senthilnathan ... Petitioner in both WPs

Vs.

1. The Principal Secretary to Government
and Administrator,
Annamalai University,
Annamalai Nagar,
Cuddalore District,
Pin: 608 002.
2. The Registrar,
Annamalai University,
Annamalai Nagar,
Cuddalore District,
Pin: 608 002.

... Respondents in both WPs

Prayer in WP.No.16553 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for records and quash the proceedings R.C.No.C-C5/2014 dated 20.05.2014 passed by the first respondent.

Prayer in WP.No.30898 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, call for the records and quash office Memorandum No.C2-5/2014 dated 30.09.2014 and 29.10.2014 issued by the second respondents and consequently forbearing the respondent and their agents from evicting petitioner from Door No.7, T.V.K. Lecturer Quarters, Annamalai University, Annamalai Nagar, Chidambaram Taluk, Cuddalore District except by due process of law.

For Petitioner in both WPs. : Mr.M.R.Jothimanian
for Mr.D.Baskar

For R1 & R2 in both WPs. : Mr.V.R.Kamalanathan

COMMON ORDER

The Petitioner has come up with these writ petitions for quashment of the proceedings in R.C.No.C-C5/2014 dated 20.05.2014 passed by the first respondent and quashment of the office Memorandum No.C2-5/2014 dated 30.09.2014 and 29.10.2014 issued by the second respondents and their agents from evicting petitioner from Door No.7, T.V.K. Lecturer Quarters, Annamalai University, Annamalai Nagar, Chidambaram Taluk, Cuddalore District except by due process of law.

2. It is the case of the petitioner that he was appointed as Assistant Professor, Department of Physical Education in the Annamalai University in the year 2003 and has been rendering unblemished service. While so, on 04.06.2012, a complaint was given by one R.Sakthi alleging that the petitioner received a sum of Rs.16,00,000/- from him promising to get him a job in the Annamalai University, but he was unable to get the job and he did not return the amount. According to the petitioner, the said Sakthi gave a complaint under Section 138 of Negotiable Instruments Act, 1881, which was pending before the learned Judicial Magistrate, Rasipuram. Pursuant to the said complaint, enquiry was conducted and the petitioner was placed under suspension by order dated 22.07.2013. Subsequently, by Proceedings in Roc.No.Estt./C-C/2013 dated 05.08.2013, the second respondent issued a charge memo framing three charges, to which, the petitioner gave his explanation on 03.10.2013. Thereafter, an Enquiry Committee was constituted and after enquiry, the committee filed a report holding the charges proved. In the meanwhile, the petitioner settled the amount due to the said Sakthi, who in turn, gave a letter dated 11.04.2014 withdrawing his complaint. Stating so, the petitioner sent a representation requesting to drop the charges and permitting him to rejoin the duty. However, the first respondent passed an order dated 20.05.2014, imposing the penalty of removal from service. Consequently, the second respondent sent a communication dated 30.09.2014, calling upon the petitioner to vacate the quarters allotted to him. On receipt of the same, the petitioner submitted a representation dated 10.10.2014 requesting to allot the said quarters in his wife's name, who is also working as Assistant Professor. The said representation was rejected by the second respondent, by order dated 29.10.2014. Challenging the order of punishment dated 20.05.2014 passed by the first respondent and the orders dated 30.09.2014 and 29.10.2014 issued by the second respondent, the petitioner has filed the respective WP.Nos.16553 and 30898 of 2014.

3. Upon notice, the second respondent filed a detailed counter affidavit in WP.No.16553 of 2014, wherein, it is inter

alia stated that since the Enquiry Committee had held all the charges as proved and as the Syndicate is the authority competent to impose penalties on teaching staff, the disciplinary proceeding initiated against the delinquent officer for his involvement in cheating of money, misconduct and corruption was placed before the Syndicate for its consideration. It is further stated therein that the Syndicate in its resolution No.29 dated 07.05.2014 has resolved that on considering the gravity of the allegations and also the fact that his activities have brought disrepute to the University, the petitioner was imposed with the penalty of "removal from the services of the University" for the proven charges of misconduct and corruption and accordingly, he was imposed with the said punishment, as per Rule 4 in part 15 of the Chapter XXVII of the Laws of the University with immediate effect. It is also stated in the counter that proceedings in each and every step has been conducted in accordance with law and the petitioner was given enough opportunities to prove himself, however, he failed to prove himself as innocent, instead he accepted the misconduct committed by him, for which the said punishment was imposed. Stating so, the second respondent prayed to dismiss the writ petition.

4. This Court paid its best attention to the contentions advanced by the learned counsel on either side and perused the materials available on record.

5. The facts in issue are not in dispute. With regard to certain acts of the petitioner in the course of his duties, criminal complaint was lodged against him and the petitioner had come out of the same after paying the amounts due under the said complaint. However, as the said act of the petitioner had come to the knowledge of the respondents, the unbecoming conduct and character of the petitioner necessitated the initiation of the departmental enquiry leading to his removal from service.

6. A perusal of the materials available on record reveal that the whole gamut of facts have not been disputed by the petitioner. Further, it is to be pointed out that the petitioner has not alleged any irregularity or illegality in the conduct of the enquiry. The enquiry has been conducted in accordance with law and the petitioner was afforded sufficient opportunity to defend himself and in the enquiry, the petitioner has accepted his delinquency and, accordingly, the enquiry report was filed holding the charges proved, on which the Syndicate had acted and imposed the punishment of removal from service. Such being the case, the petitioner himself having accepted the delinquency and has also not shown any credible material that the enquiry was a farce, the relief sought for by

the petitioner for setting aside the punishment cannot be acceded to. It has been time and again reiterated by the Courts that unless the punishment imposed is shown to be disproportionate and shocking the conscience of the court, the courts shall not interfere with the same. The delinquency of the petitioner is of such a magnitude, the respondents have imposed the punishment, and this Court, sitting under Article 226 of the Constitution is not inclined to exercise its inherent jurisdiction, more so, when the punishment does not appear to be too excessive and disproportionate to the delinquency committed by the petitioner. Accordingly, W.P. No.16553 of 2014 is liable to be dismissed.

7. Insofar as W.P.No.30898/2014 is concerned, it is to be pointed out that the petitioner having been removed from service, he no longer has a lien over his quarters and in that backdrop, it is not open to the petitioner to come before this Court and claim, as a matter of right, retention of the said quarters and allotment of the said quarters in the name of his wife. It is for the respondents to consider the case of the petitioner for retention of the said quarters in the name of his wife, if at all his wife is entitled for the said quarters. Therefore, the prayer for retention of quarters and for a direction to allot the said quarters in the name of his wife does not merit acceptance and, accordingly, the same is also liable to be dismissed.

8. For the reasons aforesaid, both the writ petitions, viz., WP.No.16553 of 2014 as also WP.No.30898 of 2014 are dismissed. The petitioner is directed to vacate his quarters and hand over vacant possession of the same to the second respondent within a period of four weeks from the date of receipt of a copy of this order. However, liberty is granted to the petitioner, through his wife, to approach the respondents, in accordance with law, by filing necessary representation for allotment of the said quarters in the name of his wife and if any representation is submitted, as above, the respondents shall consider the same in accordance with law and pass appropriate orders. Consequently, connected Miscellaneous petitions are also closed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government
and Administrator,
Annamalai University,
Annamalai Nagar,
Cuddlaore District,
Pin: 608 002.

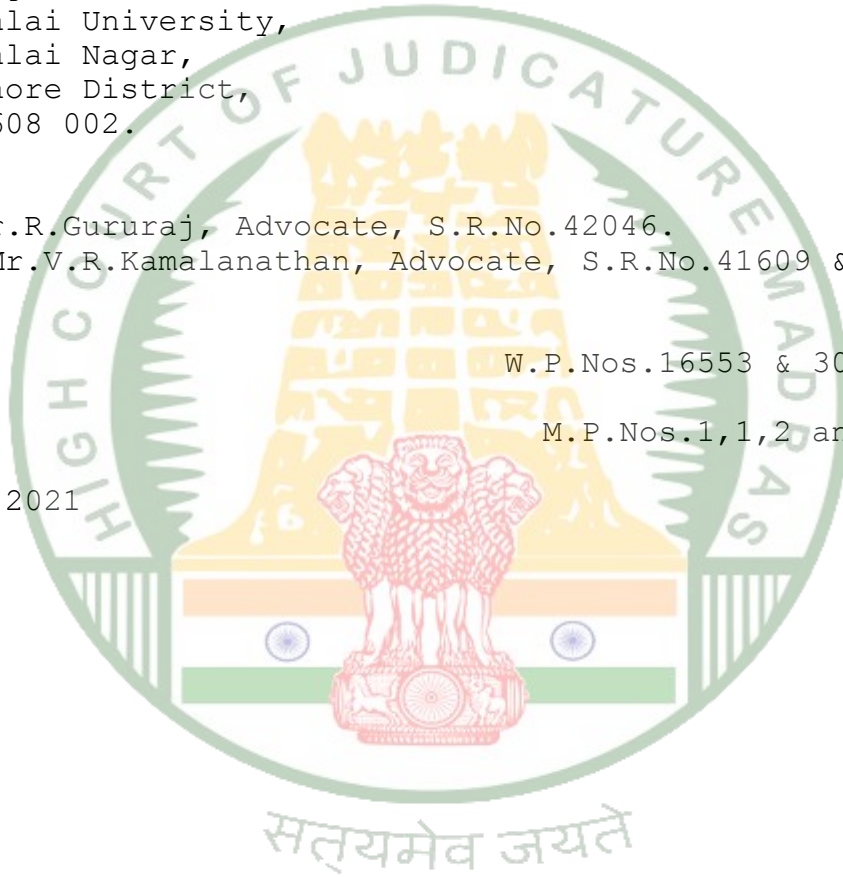
2. The Registrar,
Annamalai University,
Annamalai Nagar,
Cuddlaore District,
Pin: 608 002.

+1cc to Mr.R.Gururaj, Advocate, S.R.No.42046.

+2ccs to Mr.V.R.Kamalanathan, Advocate, S.R.No.41609 & 41610.

W.P.Nos.16553 & 30898 of 2014
and
M.P.Nos.1,1,2 and 2 of 2014

AJS (CO)
CSR 11.03.2021



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