



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.10.2020

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P.(MD) No.16576 of 2014

and

M.P.(MD) No.1 of 2014

K.Sheriff

... Petitioner

Vs.

1. The Director of Collegiate Education,
College Road, Nungambakkam
Chennai - 6
2. The Joint director of Collegiate Education,
Madurai Region
Madurai - 20.
3. Ayyanadar Janakiammal College
Rep. by its Secretary,
Sivakasi - 626 123,
Virudhunagar District.

... Respondents

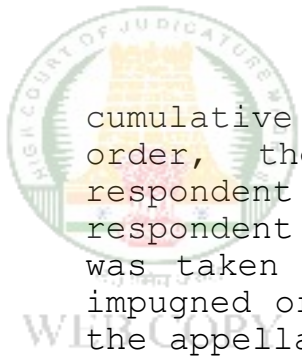
PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the third respondent in Ref. No. 304/S/2014, dated 22.09.2014, quash the same and direct the third respondent to continue to pay the same salary to the petitioner.

For Petitioner : Mr.M.Saravanan
For R-1 & R-2 : Mr.J.Gunaseelan Muthiah,
Additional Government Pleader

O R D E R

The order of penalty which was imposed in the year 1999 is sought to be executed through the impugned order in proceedings dated 22.09.2014.

2. The petitioner is working in the third respondent college for more than 25 years. On initiation of disciplinary proceedings the punishment of stoppage of two increments with



cumulative effect from 17.05.1999, challenging the said punishment order, the petitioner preferred an appeal before the first respondent and the said punishment was confirmed by the first respondent in proceedings dated 21.05.2001. Thereafter, no action was taken by the respondents for long time. All of a sudden the impugned order has been passed after a lapse of about 13 years from the appellate order stating that the punishment of cutting increment has not been recovered and therefore, the said punishment is proposed to be recovered in the year 2014.

3. The learned counsel appearing on behalf of the writ petitioner made a submission that no doubt the punishment reached the finality. The appeal also rejected. However, no action has been taken by the respondents for the past more than 13 years and suddenly during the year 2014 they have passed the impugned order that too without providing any opportunity to the writ petitioner.

4.No notice or opportunity was provided to the writ petitioner to defend the case in view of the fact that the action is taken surprisingly after lapse of 13 years from the date of passing of the appellate order in the disciplinary proceedings. This apart the increment had already been paid long back to the writ petitioner and the writ petitioner is receiving the increment continuously after the punishment is inflicted in the year 1999. This being the factum, the Authorities were not vigilant in executing the orders within the reasonable period of time and therefore, after a lapse of more than 13 years, the said orders passed in the year 1999 and 2001 cannot be a ground to impose recovery. Any orders passed must be within a reasonable period of time. Though time limit is prescribed a reasonableness in imposing punishment is to be adopted. The increment has already been sanctioned and for being paid to the writ petitioner for several years and therefore, the impugned recovery order is un-sustainable.

5. Accordingly, the impugned order passed by the third respondent in proceeding Ref. No.304/S/2014, dated 22.09.2014 is quashed and the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

rm



To

1. The Director of Collegiate Education,
College Road, Nungambakkam,
Chennai - 6

2. The Joint director of Collegiate Education,
Madurai Region
Madurai - 20.

+1 CC to GP SR-19588.

+1 CC to Mr.R.SUBRAMANIAN, Advocate SR-19519.

W.P. (MD) No.16576 of 2014
08.10.2020

SCR(CO)
CS(19.10.2020) 3P 5C