



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Tuesday, the Twenty First day of December Two Thousand Twenty One

PRESENT

THE HON`BLE MR.JUSTICE V.PARTHIBAN

W.M.P.No.15586 of 2019

and WMP No.17088 of 2019

in W.P.No.15739 of 2019

DR.M.ANANTH KUMAR

[PETITIONER IN WMP.No.15586 of 2019 &
1st RESPONDENT IN WMP.No.17088 of 2019]

Vs

1 THE REGIONAL OFFICER ...1 and 2 RESPONDENTS IN WMP.15586/2019
ALL INDIA COUNCIL FOR & 2 and 3 RESPONDENTS IN WMP.
TECHNICAL EDUCATION, No.17088/2019
SOUTHERN REGIONAL OFFICE,
SHASTRI BHAVAN,
26, HADDOWS ROAD,
NUNGAMBAKKAM, CHENNAI - 600 006.

2 THE SECRETARY,
SRI VENKATESWARA COLLEGE
OF ENGINEERING,
POST BAG NO.1,
PENNALUR, SRIPERUMBUDUR,
CHENNAI - 602 105

3 THE PRINCIPAL, ...3 & 4 RESPONDENTS IN WMP.15586/2019
SRI VENKATESWAR COLLEGE 1 & 2 PETITIONERS IN WMP.17088/2019
OF ENGINEERING ,
POST BAG NO.1, PENNALUR, SRIPERUMBUDUR ,
CHENNAI - 602 105.

4 THE SECRETARY
SRI VENKATESWARA EDUCATIONAL AND HEALTH
TRUST, NO.1/3A, RIVER VIEW ROAD,
KOTTURPURAM, CHENNAI - 600 085

5 THE PRINCIPAL SECRETARY / ...5 & 6 RESPONDENTS IN WMP.15586/2019
COMMISSIONER OF TECHNICAL 4 & 5 RESPONDENTS IN WMP.17088/2019
EDUCATION, DEPARTMENT OF TECHNICAL
EDUCATION, CHENNAI - 600 025



6 THE REGISTRAR
ANNA UNIVERSITY,
SARDAR PATEL ROAD,
CHENNAI-600 025

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Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to stay all consequential action based on the termination order dated 13.05.2019 issued by 3rd respondent terminating the petitioner from his service reinstate the Petitioner as Associate Professor in the 3rd respondents Institute [in W.M.P.No.15586 of 2019] pending disposal of the above W.P.No.15739 of 2019;

2.To Vacate the Interim Order of Interim Stay granted by order dated 10.06.2019 in WMP No. 15586 of 2019 in WP No. 15739 of 2019 [IN WMP No.17088 of 2019] Respectively

Order : These petitions coming on this day for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.S.JOHN J.RAJA SINGH, Advocate for the petitioner in WMP.No.15586/2019 & 1st RESPONDENT IN WMP.No.17088 of 2019 and of MR.KARTHICK, Advocate for the 1st Respondent in WMP.No.15586/2019 & 2nd Respondent in WMP.No.17088 of 2019 and of MR.AR.L.SUNDARESAN, Advocate for the 3rd and 4th Respondents in WMP.No.15586/2019 & 1 & 2 PETITIONERS IN WMP.17088/2019 and of MR.ABISHEK MOORTHY, GOVERNMENT ADVOCATE for the 5th Respondent in WMP.No.15586/2019 & 4th Respondent in WMP.17088/2019 and of MR.L.P.SHANMUGHASUNDAR, Advocate for the 6th Respondent in WMP.No.15586/2019 & 5th Respondent in WMP.17088/2019, the court made the following order:-

The Writ Petitioner has joined the third respondent college as an Associate Professor on 14.07.2014. He was appointed to the post on the ground that he had completed his Ph.D in Japan and would contribute towards development of the Department and the Institution. The College expected from him research and publishing materials, guiding projects to Ph.D/MS candidates, conducting faculty development programmes, industrial consultancy work, authoring technical books, arranging guest lecturers to students etc. However, according to the third respondent, the petitioner, after joining the college, was not able to guide one Ph.D/MS candidate for more than three years, even after getting supervisor status from Anna University.

2. The third respondent management based on the three year quantitative annual appraisal of the faculty identified in respect of the faculty members concerned, were directed to appear before the performance review committee along with documents to show his performance. This review was conducted in respect of all the faculty members including the petitioner. The Committee after going through all the materials, submitted a report holding that the performance of the petitioner was poor and not satisfactory and recommended for his termination.



3. The Management however did not terminate the services of the petitioner forthwith, but however, conducted counselling session and given an opportunity to the Petitioner to justify any reason for his poor performance. Unfortunately, there was no acceptable explanation forthcoming from the Petitioner and thereafter the Management was constrained to convey the decision to terminate him.

4. According to the Management, in terms of Clause 29 of the conditions of appointment, even after confirmation of an employee, a faculty may be discharged or terminated from the service of the college for sufficient reason by payment of three months salary. At that point of time, the petitioner has approached this Court and obtained an order of interim stay of termination. As against that, the present vacate stay petition has been filed.

5. Mr.AR.L.Sundaresan, learned Senior Counsel appearing for the College would reiterate the above facts and submit that the petitioner's performance has been extremely poor and he cannot be retained in service any further. His retention of service was against the interests of the Institution and the students and by virtue of the interim order, the Management is forced to retain the Petitioner, despite his lack of competence.

6. The learned Senior Counsel would also submit that whatever be the entitlement of the petitioner in terms of the service conditions like three months pay, would be settled to the petitioner, if not already settled. He would further submit that the order of interim stay is causing grave hardship to the Institution.

7. The learned counsel for the Petitioner appeared through video conference has attempted to impress upon the Court that principles of natural justice have been violated. According to him that sufficient opportunity has not been given to the Petitioner to prove his mettle and satisfy the Management. According to him, this Court, after satisfying with the case of the petitioner granted an order of interim stay, which may be continued till the disposal of the Writ Petition.

8. This Court is unable to countenance the submissions made on behalf of the Petitioner. As rightly contended by the learned Senior Counsel, the petitioner's performance has been reviewed by the Committee constituted for the said purpose and this Court by exercising jurisdiction under Article 226 of the Constitution of India cannot sit in appeal over the findings of the Expert Committee in matter like the present one where the competence of the faculty member being the evaluated. This Court cannot sit in appeal over such judgment and force the management to utilise the services of the Petitioner, despite the adverse findings of the expert committee relating to petitioner's below par performance.



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9. A detailed affidavit has been filed in support of the vacate stay petition in which it has been clearly stated as to how the performance of the petitioner was poor and his services could not be utilised any further in the interest of the institution.

10. Although the relationship between the Petitioner and the respondent Management is governed by statutory regulations, yet, when a decision has been taken in terms of the conditions of service, unless that decision is patently illegal or malafide, the same cannot be interfered with by Courts.

11. In the face of the adverse findings by the Review Committee against the performance of the Petitioner, the Petitioner cannot force himself on the Institution, as that would be prejudicial not only to the interest of the Institution but also to the students' interests as well.

12. For the aforesaid reason, interim stay granted on 10.06.2019 stands vacated and WMP No.17088 of 2019 stands allowed and WMP No.15586 of 2019 stands dismissed.

13. List the main Writ Petition for counter and disposal in the first week of February, 2022.

-sd/-

21/12/2021

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Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE REGIONAL OFFICER
ALL INDIA COUNCIL FOR TECHNICAL EDUCATION,
SOUTHERN REGIONAL OFFICE, SHASTRI BHAVAN,
26, HADDOWS ROAD, NUNGAMBAKKAM,
CHENNAI - 600 006.

2 THE PRINCIPAL SECRETARY /
COMMISSIONER OF TECHNICAL EDUCATION,,
DEPARTMENT OF TECHNICAL EDUCATION,
CHENNAI - 25



3 THE REGISTRAR
ANNA UNIVERSITY,
SARDAR PATEL ROAD,
CHENNAI-25

C.C. to M/S.AL.GANTHIMATHI, Advocate, SR.No.7676/2021

Order
in
W.M.P.No.15586 of 2019
and WMP No.17088 of 2019
in W.P.No.15739 of 2019

Date :21/12/2021

From 26.2.2001 the Registry is issuing certified
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RA 11/01/2022