



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.19039 of 2021

and

W.M.P.Nos.20306 & 20307 of 2021

(Through Video Conferencing)

E.Narasimalu

...

Petitioner

Vs

1. The Chairman

SRM Group,
Jawaharlal Nehru Road,
(100 feet road, Near Vadapalani Signal)
Vadapalani Campus,
Chennai - 600 026.

2. The Vice Chairman,

SRM Arts & Science College,
(SRM University-Main Library),
SRM Nagar, Kattankulathur,
Chengalpattu District - 603 203.

3. The Principal,

SRM Arts & Science College,
Affiliated to University of Madras,
SRM Nagar, Kattankulathur,
Chengalpattu District - 603 203.

4. The Dean,

SRM-IST,
No.33, Kalaimagal Nagar, 3rd Phase,
Ekkatuthangal Campus,
Chennai - 600 032.

...

Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the impugned Lay Off notice dated 08.09.2020, issued by the third respondent vide E-Mail dated 07.10.2020 and quash the same and direct the respondents to reinstate the petitioner in service in the post of Technical Instructor with full back wages, continuity of service and all other consequential benefits.



For Petitioner : Ms.S.Mahalakshmi

ORDER

WEB COPY

The petitioner has sent a representation dated 27.01.2021 to the respondents to cancel the Lay Off Notice and thereby reinstate the petitioner from service.

2. Though, this case came up for admission, it was adjourned to facilitate the counsel for the petitioner to satisfy as to how the writ petition is maintainable.

3. The learned counsel for the petitioner submits that the respondents herein are discharging public functions and public duty and therefore the respondents are amenable to the jurisdiction of this Court under Article 226 of the Constitution of India.

4. The learned counsel for the petitioner has filed a decision of the Hon'ble Supreme Court in Dr.Janet Jeyapual Vs SRM University and others, 2015 (16) SCC 530, which is pertains to the same respondents herein and referred to few passages from the aforesaid Judgment of the Hon'ble Supreme Court.

5. The respondents in the aforesaid case appears to be SRM University and the respondents in the present case appears to be one of the College in the same group. There the petitioner had challenged the notice relieving the petitioner therein from service with effect from 04.05.2012. On the said order relieving the petitioner therein was challenged in W.P.No.12676 of 2012. The Writ Court allowed the writ petition by quashing the termination notice and directed the respondents College to reinstate the petitioner therein. On a further appeal before the Hon'ble Division Bench of this Court, the writ appeal was allowed at the behest of the College.

6. Aggrieved by the same, the petitioner therein had filed a Special Leave Petition before the Hon'ble Supreme Court. In Paragraphs 20 and 31 of Dr.Janet Jeyapual's Case (referred to supra), the Hon'ble Supreme Court held as follows:-

"20. The term "Authority" used in Article 226, in the context, must receive a liberal meaning unlike the term in Article 12. Article 12 is relevant only for the purpose of enforcement of fundamental rights under Article 32. Article 226 confers power on the High Courts to issue writs for enforcement of the fundamental rights as well as non-fundamental rights. The words any person or



WEB COPY

authority used in Article 226 are, therefore, not to be confined only to statutory authorities and instrumentalities of the State. They may cover any other person or body performing public duty. The form of the body concerned is not very much relevant. What is relevant is the nature of the duty imposed on the body. The duty must be judged in the light of the positive obligation owed by the person or authority to the affected party. No matter by what means the duty is imposed, if a positive obligation exists mandamus cannot be denied. SLP No.11208 of 2015.

31. Be that as it may, it cannot be denied that the Board does discharge some duties like the selection of an Indian cricket team, controlling the activities of the players and others involved in the game of cricket. These activities can be said to be akin to public duties or State functions and if there is any violation of any constitutional or statutory obligation or rights of other citizens, the aggrieved party may not have a relief by way of a petition under Article 32. But that does not mean that the violator of such right would go scot-free merely because it or he is not a State. Under the Indian jurisprudence there is always a just remedy for the violation of a right of a citizen. Though the remedy under Article 32 is not available, an aggrieved party can always seek a remedy under the ordinary course of law or by way of a writ petition under Article 226 of the Constitution, which is much wider than Article 32."

However, in ultimate paragraph, it observed as under:-

"25. In normal course, we would have been inclined to accept this submission made by learned counsel for the respondents and would have also granted liberty to the appellant to approach the Tribunal in term of the directions given by the Constitution Bench of this Court. But since in this case, the Single Judge not only entertained the appellant's writ petition but he allowed the writ petition on merits whereas the Division Bench held the writ petition as not maintainable and thus declined to examine the merits of the controversy involved in the writ petition."



7. It is only the peculiar facts of the case, the relief granted to the writ petitioner therein was allowed as the learned Single Judge had entertained the writ petition and granted relief and it was construed and that it was not proper to relegate the party to approach the Tribunal as the Hon'ble Division Bench declined to examine the case on merits. The petitioner in this case has however approached this Court even though the petitioner has an alternate remedy and more efficacious before the Court/Tribunal. This Court is therefore inclined to dismiss this writ petition as the petitioner has an alternate remedy.

8. The discretion cannot be exercised in favour of the petitioner by entertaining this writ petition. The petitioner has to work out the remedy before the Jurisdictional Forum under the relevant labour law applicable to the petitioner.

9. This Writ petition is dismissed with the above observations. No Costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

arb/nst
To

1.The Chairman,
SRM Group,
Jawaharlal Nehru Road,
(100 feet road, Near Vadapalani Signal)
Vadapalani Campus,
Chennai - 600 026.

2.The Vice Chairman,
SRM Arts & Science College,
(SRM University-Main Library),
SRM Nagar, Kattankulathur,
Chengalpattu District - 603 203.

3.The Principal,
SRM Arts & Science College,
Affiliated to University of Madras,
SRM Nagar, Kattankulathur,
Chengalpattu District - 603 203.



4.The Dean,
SRM-IST,
No.33, Kalaimagal Nagar, 3rd Phase,
Ekkatuthangal Campus,
Chennai - 600 032.

+1cc to M/s.S.Mahalakshmi, Advocate Sr.46358

W.P.No.19039 of 2021
and
W.M.P.Nos.20306 & 20307 of 2021

pl[co]
srg 18/10/2021