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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 03.12.2021
CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.21934 of 2021
and
W.M.P.Nos.23138, 23141 & 23142 of 2021
and
W.M.P.Nos. 25097 & 25099 of 2021

Dr.C.Praba

.. Petitioner

Vs

1. The Director of Collegiate Education,
9th Floor, EVK Sampath Maligai,
DPI Campus, College Road,
Nungambakkam,
Chennai -600 008.
2. The Joint Director of Collegiate Education,
Vellore Region,
Vellore - 632 006
3. The Secretary,
Auxilium College (Autonomous)
Gandhi Nagar,
Vellore - 632 006.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records connected with the impugned order dated 16.08.2021 passed by the 3rd respondent and quash the same and consequently, direct the respondents to continue the petitioner as Assistant Professor Economics in the 3rd respondent College, with all monetary and other benefits with continuity of service.

For Petitioner : Mr.S.Sathia Chandran

For Respondents: Mr.V.Veluchamy,
Additional Government Pleader
for R1 & R2
Mr.Godson Swaminath
for R3

O R D E R

This writ petition has been filed to issue a Writ of Certiorarified Mandamus to call for the entire records connected with the impugned order dated 16.08.2021 passed by



the 3rd respondent and quash the same and consequently, direct the respondents to continue the petitioner as Assistant Professor Economics in the 3rd respondent College, with all monetary and other benefits with continuity of service.

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2. The petitioner was appointed as an Assistant Professor on 14.08.2020 in the 3rd respondent College. She had originally applied in response to an advertisement dated 25.03.2020 published by the 3rd respondent College calling for application from women candidates. She offered her candidature for the post of Assistant Professor- Economics (unaided stream). After her appointment, the 2nd respondent granted approval of her appointment with effect from 11.11.2020 as Assistant Professor of Economics in the 3rd respondent College. The 3rd respondent issued appointment order on 11.11.2020 which contained all the terms and conditions for appointment. She was appointed on probation for a period of two years from the date of joining.

3. According to the petitioner, she has been discharging her duties efficiently and diligently without any complaints. Her appointment was also subsequently, approved by the Educational authority on 16.12.2020. Due to Covid-19 pandemic situation, the petitioner was directed to organize online classes and teach the students by creating WhatsApp groups for each subject. Accordingly, the petitioner had also created WhatsApp group, in which, the study materials were shared to the students as part of the online programme.

4. While matter stood thus, suddenly, the 3rd respondent issued a show cause notice dated 30.07.2021 holding that she had leaked certain question papers and she was asked to give her explanation within 24 hours in writing as to why disciplinary action should not be taken against her. At this, the petitioner appeared to have submitted a reply on 31.07.2021 denying the allegation of leaking of question paper or any act of misconduct by her. In the reply, she had pointed out that for the subject 'NME Women Entrepreneurship', she had taken materials from website of 'Nehru Institute of Engineering Technology' under the title Entrepreneurship and Project Management' which was circulated to the students as study materials along with 28 questions which she prepared on her own with the syllabus.

5. The 3rd respondent, not satisfied with the reply appeared to have insisted the petitioner vide communication dated 02.08.2021 to give apology letter for her conduct and that she would be let off with warning. Believing the assurance of the 3rd respondent, a letter was given by her and the same was treated as resignation, by the 3rd respondent. Thereafter, the 2nd show cause notice was issued on 11.08.2021 proposing a punishment of dismissal from service. According to the petitioner, she approached the 3rd respondent and tendered apology letter as per the direction of the Management



on 02.08.2021. The 2nd show cause issued was in violation of the assurance given to her by the Management. Once again, the Management prevailed upon the petitioner to give another letter of apology so that a lenient view would be taken in the matter. Accordingly, she wrote a letter dated 12.08.2021 and apologized for the mistake she had not committed at all. Subsequently, on 16.08.2021, an order was served, dismissing her from service with effect from the same date. Challenging the dismissal order, the present Writ Petition has been filed.

6. The learned Judge of this Court, who entertained the writ petition initially, felt that the dismissal order was found to be ex-facie illegal and therefore, granted stay of the impugned order on 08.10.2021. Thereafter, the matter was heard for some time and today, the matter was posted for hearing at the instance of the 3rd respondent Management which is seeking to vacate the interim order granted by this Court on 08.10.2021.

7. Heard the learned counsel appearing for the parties and also perused the materials placed on record.

8. What has not been disputed is that the petitioner has been dismissed from service without following the iota of procedure that is expected to be followed in such matters.

9. When the petitioner is being sent out of employment on a very serious charge of leaking the question paper, touching upon the integrity, conduct and character, the rudimentary principle that is expected of a Management is to follow the due process of law. According to the petitioner, she appeared to have given some explanation of her conduct and unfortunately, the same has not been considered at all by the 3rd respondent. If only the 3rd respondent had conducted proper enquiry by calling for an explanation from the petitioner and considered the explanation submitted by the petitioner dispassionately, there could have been a possibility of coming to a different conclusion by the Management against the petitioner. Unfortunately, from the start to finish, the 3rd respondent College appeared to be pre-determined to dispense with the service of the petitioner without giving her proper opportunity.

10. This Court is of the view that the 3rd respondent, while dismissing the petitioner, has violated the entire norms that are mandatorily to be followed, while dismissing even probationer, on the basis of the allegation against her conduct and character. This Court finds that the dismissal order suffers from violation of principles of natural justice and therefore, liable to be interfered with. Under no circumstances, such an order can be allowed to stand, particularly, when the future of the petitioner is being affected and her employment has been brought to an abrupt end without giving her an opportunity at all.



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11. Although, Mr. Godson Swaminath, the learned counsel appearing for the 3rd respondent attempted to argue the case as to the seriousness of the allegation against the petitioner, this Court is unable to countenance his argument for the simple reason that no matter whether the allegations against the petitioner was serious or not, the petitioner even though, a probationer cannot be sent out of the employment without following the established principles of natural justice. When a teaching faculty is to be removed from service on the basis of allegation against her integrity, it is all the more reason that there must be full fledged enquiry and a reasonable opportunity to be given to the petitioner to put forth her defence and only after going through the enquiry proceedings and the findings rendered against her, any drastic action can be taken against the petitioner and not before that. In fact, even assuming if there was any truth in the allegation, ultimately the proportionality and the quantum of punishment is also to be a matter of consideration by the employer while dismissing its employee concerned. Unfortunately, without going through any of the procedure, the 3rd respondent has simply dismissed the petitioner which smacks of malafide, arbitrariness and cannot stand the test of reasonableness under Article 226 of the Constitution of India.

12. For the above said reasons, the impugned order dated 16.08.2021, passed by the 3rd respondent, is hereby set aside.

13. The 3rd respondent is directed to reinstate the petitioner forthwith by passing appropriate order in this regard within a period of two weeks from the date of receipt of a copy of this order.

14. The 3rd respondent is however, at liberty to proceed against the petitioner, in case, they have any materials to support their allegation against the petitioner, if they are so advised.

15. Accordingly, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vsi
To

1. The Director of Collegiate Education,
9th Floor, EVK Sampath Maligai,
DPI Campus, College Road,
Nungambakkam,
Chennai - 600 008.



2. The Joint Director of Collegiate Education,
Vellore Region,
Vellore - 632 006

3. The Secretary,
Auxilium College (Autonomous)
Gandhi Nagar,
Vellore - 632 006.

+1 cc to Mr.S.Sathia Chandran,Advocate Sr.NO. 63349

+1 cc to Government Pleader Sr.NO. 63794

W.P.No.21934 of 2021

PL(CO)

A.SK(17.12.2021)