



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition (MD)No.9217 of 2011

Dr.T.Murugesan

... Petitioner

Vs.

1.Union of India

represented by the Secretary to Government,
Department of Higher Education,
Ministry of Human Resource Development,
Shastri Bhavan,
New Delhi 110 001.

2.University Grants Commission,
represented by its Secretary,
Bahadur Shah Zafar Marg,
New Delhi 110 002.

3.The Registrar,
Periyar Maniammai University,
Periyar Nagar,
Vallam,
Thanjavur 613 403.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of the third respondent dated 01.07.2010 in proceedings No.PMU/Regr/C1/058/2010 and quash the same and consequently direct the respondents to fix the petitioner's remuneration on the basis of 6th pay commission recommendations from the date of the petitioner's appointment and pay the arrears and other emoluments to the petitioner on that basis thereof.

For Petitioner	:	Mr.R.Narayanan
For R1 & R2	:	Mr.R.Jeyasingh
		Standing counsel
For R3	:	No appearance

O R D E R

This writ petition has been filed challenging the impugned order passed by the third respondent in proceedings

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3. The learned counsel appearing for the petitioner would submit that for the genuine reason, the petitioner was absented from duty from 08.06.2010 to 14.06.2010, for which, a show cause notice was issued against him. Thereafter, the petitioner has given a satisfactory explanation to the third respondent. However, without considering the same, the third respondent has passed the impugned order of termination. He would further submit that before termination, the third respondent University has to follow the procedure contemplated under the Rules of the University and without following the said Rules, simply terminating the petitioner is *non est* in the of law. Therefore, he prayed for allowing this writ petition.

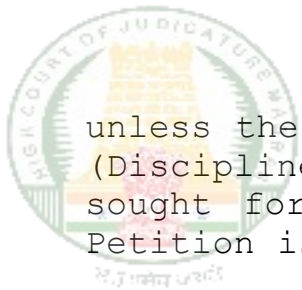
<https://hcservices.accounts.govt.nz/hcservices/>



University has appointed the petitioner as a Professor in the time scale of pay of Rs.16400-450-20900-500-22400 and on probation for a minimum period of one year and after completion of the probationary period, his performance will be analysed and if the performance is satisfactory, the probationer will be declared to have completed his probation satisfactorily. If the performance of the probationer is not satisfactorily, either he may be terminated from service or his performance may be observed for an extended period. He would further submit that a Committee had been constituted on 15.05.2010, for evaluating the performance of all the staff, who have completed their notional probationary period including the writ petitioner. On 31.05.2010, the Committee has recommended that the regular academic performance and achievements of the writ petitioner are not satisfactory and no appreciable contribution has been done with respect to research, seminars and workshops. As the petitioner continued his lethargic and irregular attitude, the third respondent has issued a show cause notice on 17.06.2020. But the petitioner has not given any satisfactory explanation for his unauthorised absence. Thereafter, the third respondent has terminated the petitioner from service on the ground of unsatisfactory academic performance, during his probationary period. Hence, he prayed for dismissal of this writ petition.

5. Heard the learned counsel for the petitioner, learned Standing counsel appearing for the respondents 1 and 2 and perused the materials available on record.

6. The facts in the present case are not in dispute. The issue involved in the present writ petition is whether the petitioner is a probationer or regular employee. Admittedly, the petitioner was appointed on 23.04.2008. On perusal of the appointment order, it is made clear that from the date of joining, he shall be placed under probation for a period of one year. It is also not in dispute that the termination order was passed in the year 2010. A perusal of the termination order reveals that for extending the probation, the University has appointed the Committee to evaluate the performance of the probationers including the petitioner and the Committee has given a report on 31.05.2010. In the report, the Committee has stated that the performance of the petitioner has been assessed and on its final assessment, the Committee came to a conclusion that the individual's performance is not satisfactory. Accepting the said evaluation report, the third respondent University has terminated the petitioner from service as per Rule 68(2) (a) of Bye Laws of Periyar Maniammai University. When such being the case, interfering with the opinion given by the Expert Committee is *non est* in the law and this Court is not inclined to re-appreciate or re-examine the opinion given by the Expert Committee. Further, the petitioner is only a probationer and



unless the probation came to an end, the Tamil Nadu Civil Services (Discipline and Appeal) Rules is not applicable. Hence, the prayer sought for in the writ petition cannot be granted and the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(AD-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

akv

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Secretary to Government, Union of India,
Department of Higher Education,
Ministry of Human Resource Development,
Shastri Bhavan, New Delhi 110 001.

+1 CC to M/s.S.KARUNAKAR, Advocate (SR-1951[F] dated 25/01/2021)

+1 CC to M/s.S.JEYASINGH, Advocate (SR-2130[F] dated 27/01/2021)

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SRK(CO)

TR(08.03.2021) 4P 4C