



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.08.2021

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD) No.41 of 2013

S.Sundaresan

... Petitioner

vs.

- 1.The Chief Secretary,
Tamil Nadu Government,
Fort.St.George, Chennai.
- 2.The Finance Secretary,
Tamil Nadu Government,
Fort.St.George, Chennai.
- 3.The Secretary,
Education Department,
Fort.St.George, Chennai 600 009.
- 4.The Director,
Directorate of Technical Education,
Guindy, Chennai 600 025.
- 5.The Commissioner,
Technical Education,
Directorate of Technical Education,
Chennai 600 025.
- 6.The State Accountant General,
Anna Salai, Chennai.
- 7.The principal,
Alagappa Chettiar College of
Engineering and Technology,
Karaikudi-4.

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in G.O.(2D).No.37 dated 16.08.2012 on the file of first respondent and quash the same as illegal, incompetent and unconstitutional and in consequence reinstate the petitioner into service with back wages and with all other consequential benefits.

For Petitioner	: Mr.S.Ramesh
For R1 to R5	: Mr.K.S.Selva Ganesan Government Advocate
For R6	: Mr.P.Gunasekaran
For R7	: No Appearance

**ORDER**

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the order passed by the first respondent vide G.O.(2D).No.37 dated 16.08.2012 and to direct the respondents to reinstate the petitioner into service with back wages.

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2.Heard Mr.S.Ramesh, learned Counsel for the petitioner, Mr.K.S.Selva Ganesan, learned Government Advocate for R1 to R5 and Mr.P.Gunasekaran, learned Counsel for 6th respondent.

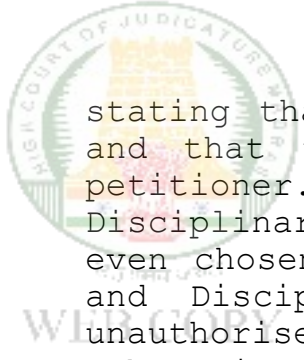
3.The petitioner joined in service Alagappa Chettiar College of Engineering and Technology (ACCET), Karaikudi, in the department of Physics on 08.01.1981, as Demonstrator. It is the case of the petitioner that the petitioner was upgraded as Associate Lecturer in January-1984. In 1985, the petitioner was transferred to Government College of Engineering, Tirunelveli, as Associate Lecturer in the department of Physics. The petitioner has stated many things about his credentials, particularly, his achievements from 1989 to 1996.

4.It is admitted that the petitioner was transferred from Computer department Tirunelveli to Alagappa College of Engineering and Technology (ACCET), Karaikudi, as Lecturer in Physics department on 22.06.1996. The petitioner approached the State Administrative Tribunal and filed O.A.No.4134 of 1996 challenging the order of transfer, on 02.08.1996. The said O.A. was disposed of with a direction to consider the representation of the petitioner within three weeks.

5.It is admitted that the petitioner joined in Alagappa College of Engineering and Technology (ACCET), Karaikudi. Thereafter, the petitioner started taking leave for several reasons continuously. It is stated that the petitioner has availed 566 days of leave between 1997 and 1999. Hence, a charge memo was issued to the petitioner alleging willful absence. Though three charges were framed against the petitioner, all the charges are relating to unauthorised absence. The enquiry report reveals that the petitioner did not even bother to appear before the Enquiry Officer. Left with no other alternative, the Enquiry Officer found the petitioner guilty of all the charges considering the available records. Based on the enquiry report, the first respondent, by the impugned order, dated 16.08.2012, removed the petitioner from service. Aggrieved by the same, the above Writ Petition is filed.

6.The learned Counsel for the petitioner though raised several grounds, this Court is unable to accept any of the grounds raised or points urged by the learned Counsel for the petitioner before this Court. It is admitted that the petitioner was absent for a long period without proper leave application. The petitioner has not given any explanation for his continuous absence for a long period.

<https://hccs.echips.gov.in/services/> charge memo was issued, the petitioner tried to explain by

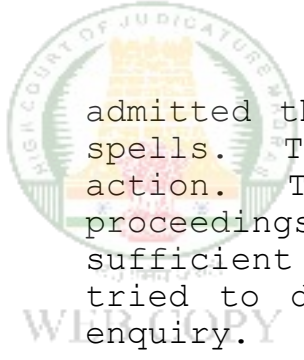


stating that he availed leave as permissible in the service rules and that therefore, no misconduct could be alleged against the petitioner. However, the findings of the Enquiry Officer and the Disciplinary Authority clearly reveal that the petitioner has not even chosen to give a valid explanation before the Enquiry Officer and Disciplinary Authority. While facing serious charges of unauthorised absence, the conduct of the petitioner is still unbecoming. This Court is surprised to note the recalcitrant and irresponsible attitude of the petitioner in response to the serious charges.

7.It is seen from the enquiry report that the Enquiry Officer has given sufficient opportunity to the petitioner. However, the petitioner did not avail the opportunity by participating the enquiry. The petitioner's attitude right from beginning indicates that the petitioner is not interested in continuing in service as a Lecturer or an Academician. It appears that the petitioner has no moral principle but he was motivated and guided by his dispassion and grudge against the management. Though the petitioner has expressed his grievance by stating that he was not given sufficient opportunity either by the Enquiry Officer or by the Disciplinary Authority, this Court is unable to find any merit in the said submission, especially, when the petitioner by his conduct not only failed to report duty, but also put the management in embarrassment all along for no valid reasons. Ultimately, the petitioner tries to project his mental disorder and due to family issues, which cannot be considered. This Court has to consider the interest of students and educational institution, in which the petitioner was in service.

8.In the counter affidavit filed on behalf of the respondents 3 to 7, it is stated that the petitioner was irregular in attending the College after joining duty on 18.10.1996. The petitioner was an Associate Lecturer in Physics Department. However, the petitioner abdicating his moral and contractual responsibilities besides professional ethics applied for leave frequently. It is admitted that the petitioner applied for 80 days leave from 03.02.1997 to 30.04.1997 in three spells. After the expiry of leave, he joined duty on 01.05.1997. After enjoying the semester holidays from 14.05.1997, which was a paid holiday, he had again applied for leave from 25.06.1997, as the semester holidays came to an end on 24.06.1997.

9.For the period from 02.07.1996 to 27.06.1997, the petitioner enjoyed the leave of 266 days in various spells within a span of one year for no valid reason. Therefore, the attitude and conduct of the petitioner clearly indicates that the petitioner wilfully abstained from work continuously by applying leave during working days purposely. After joining duty on 30.06.1997, the petitioner once again went on leave on 01.07.1997. The petitioner is in the habit of submitting the leave application after expiry of leave



admitted that the petitioner has availed leave for 566 days in 19 spells. Therefore, the management was forced to take disciplinary action. The petitioner did not even cooperate, when disciplinary proceedings were initiated. Though the respondents have given sufficient opportunity to the petitioner, it was the petitioner who tried to derail the whole thing by abstaining from attending the enquiry.

10. Apart from the admitted facts, this Court does not find even an attempt by the petitioner to convince this Court or the establishment that he had sufficient reasons for his unauthorised absence. The petitioner has not produced any documents to suggest that he was suffering on account of health issue or he had family problems. Despite sufficient opportunities being given to the petitioner, the petitioner did not appear for the enquiry not only before the Enquiry Officer, but, also before the Disciplinary Authority. The real intention of the petitioner in evading the whole enquiry proceedings would show the attitude and behavior of the petitioner, which are most irritating and harmful to the respondents.

11. The petitioner never regretted for his prolonged absence and he justified his conduct probably due to ill-feeling. Hence, keeping the petitioner in service will result in serious consequences affecting the administration of the institution as well as the interest of the students of the College. The petitioner has come forward, as if he was not given proper opportunity in the course of the enquiry. However, none of the allegations, the petitioner has made before this Court in the affidavit filed in support of the Writ Petition, are supported by materials. Even the learned Counsel for the petitioner, except repeating the averments, is unable to demonstrate before this Court as to how the petitioner was put to prejudice in the course of enquiry. Having regard to the conduct of the petitioner, which indicates lack of moral, ethics and conscience, this Court is of the firm view that the punishment imposed on the petitioner is commensurate to the grave charges framed against the petitioner.

12. For the foregoing reasons, this Court is not inclined to entertain this Writ Petition and accordingly, this Writ Petition is dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar (CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



To

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Tamil Nadu Government,
Fort.St.George, Chennai.
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- 5.The Commissioner,
Technical Education,
Directorate of Technical Education,
Chennai 600 025.
- 6.The State Accountant General,
Anna Salai, Chennai.

+1 CC to M/s.V.RAGHAVACHARI, Advocate (SR-27488[F] dated 26/08/2021)

+1 CC to M/s.GP (SR-27386[F] dated 26/08/2021)

W.P.(MD) No.41 of 2013
25.08.2021

RD(13.09.2021) 5P 9C