



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.11060 of 2020

and

W.M.P. (MD) .Nos.9700 & 9701 of 2020

WEB COPY

Dr.M.Periyasamy

...Petitioner

Vs.

1.The Registrar,
Madurai Kamaraj University,
Madurai.

2.The Principal (Incharge),
Madurai Kamaraj University Constituent,
Model Arts and Science College,
Kappalur, Thirumangalam,
Maurai District - 625 008.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the second respondent No.Nil, dated 26.08.2020, insofar as transferring the petitioner to Madurai Kamaraj University, Constituent College, Aruppukottai is concerned and quash the same and consequently, direct the respondents to permit the petitioner to continue in Madurai Kamaraj University Constituent College, Thirumangalam.

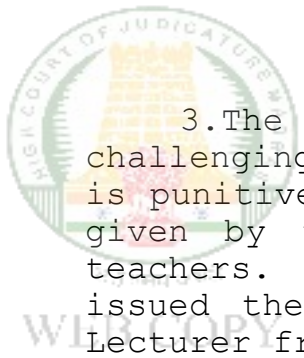
For Petitioner : Mr.V.Panneer Selvam

For Respondents : Mr.Isaac Mohanlal, Senior Counsel
for M/s.Isaac Chambers.

O R D E R

Heard Mr.V.Panneer Selvam, learned counsel for the petitioner and Mr.Isaac Mohanlal, learned Senior Counsel for the respondents.

2.The petitioner herein is a Guest Lecturer in the Department of Tamil in Madurai Kamaraj University. On 19.05.2020, the petitioner was placed under suspension, pending enquiry. The basis of the suspension order was on certain allegations of complaints made against the petitioner for sexual harassment by two female Guest Lecturers and two female students. In consequence to the suspension order an enquiry was conducted by the Enquiry Committee on 03.08.2020 and on the recommendation of the Enquiry Committee, the petitioner's suspension was revoked and he was transferred to the Madurai Kamaraj University Constituent College at Aruppukottai. Challenging the transfer order, the present writ petition has been filed.



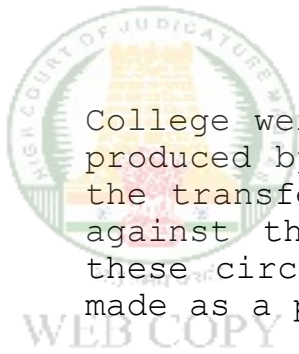
3.The learned counsel predominantly raised two grounds, challenging the impugned order. Firstly, that the order of transfer is punitive in nature, since it is in consequence of two complaints given by the petitioner on 08.07.2019 & 16.08.2019 against two teachers. Secondly, it is submitted that the Principal who had issued the transfer order, had no authority to transfer a Guest Lecturer from one College to another College.

4.The learned Senior counsel appearing for the first respondent University would submit that pursuant to the complaints against the petitioner, there was a Committee constituted for the purpose of conciliation and by it's report dated 26.02.2020, it was recommended that the petitioner be kept under suspension, pending enquiry, so that the College could function smoothly without interruption. Subsequently, based on the complaints lodged by two lady Guest Lecturers and a few girl students of the same College, an enquiry was conducted and on 03.08.2020, it was recommended by the committee to have the suspension order against the petitioner revoked and he be transferred to the Constituent College at Aruppukottai. Pursuant to the recommendation of the committee, the first respondent University had addressed the petitioner's College, through his letter dated 17.08.2020 to revoke the suspension order of the petitioner and have him transferred to the Constituent College at Aruppukottai.

5.The present impugned order is a consequential order, pursuant to the recommendation of the first respondent, through its letter dated 17.08.2020 and therefore, the learned Senior counsel would submit that the impugned order is neither punitive in nature nor the second respondent College lacks authority to pass the impugned order.

6.I have given careful considerations on the submissions made by the respective counsels.

7.Insofar as the first ground raised by the petitioner is concerned, though he claims that he had given complaints on 08.07.2019 and 16.08.2019 against two of the lady teachers, it is seen that the conciliation committee had intended to resolve the matter amicably and ultimately had felt that in order to maintain an amicable atmosphere in the College, it would be appropriate to have the petitioner's services suspended, as evidenced in the Enquiry Committee Report dated 26.02.2020. Likewise, when the two of the lady Guest Lecturers and few girl students had given complaints indicating sex harassment, an enquiry was conducted and on 03.08.2020, the committee felt that in order to maintain a peaceful atmosphere in the College, the suspension order against the petitioner could be revoked and he could be transferred to the Constituent College at Aruppukottai. The entire exercise of earlier suspending the petitioner from his services and thereafter revoking the suspension and consequently transferring him to the Constituent



College were based on these reports. There is no piece of material produced by the petitioner to indicate that the suspension order or the transfer order was an outcome of the two complaints made by him against the two lady teachers on 08.07.2019 and 16.08.2019. In these circumstances, it cannot be said that the transfer order was made as a punitive measure.

8.Insofar as the second ground raised by the learned counsel for the petitioner that the first respondent herein had no authority to transfer the petitioner from his College to another constituent College at Aruppukottai is concerned, as narrated in the aforesaid paragraphs, the decision taken by the second respondent College/Principal to transfer the petitioner was not on his volition, but as per the recommendation and authorisation of the first respondent University, through its letter dated 17.08.2020. As a matter of fact, the first respondent's recommendation to the second respondent to have the petitioner transferred, was based on the enquiry conducted against the petitioner, as evidenced in the report dated 03.08.2020. The second respondent had only acted on the basis of the recommendation made by the first respondent and had revoked the suspension order and transferred the petitioner to the Constituent College at Aruppukottai. Such an action could be said to have been exercised in his full authority, pursuant to the directions of the first respondent. As such, the second ground raised by the learned counsel for the petitioner also lacks merit.

9.The perusal of the impugned order, reveals that the order was made on administrative grounds. It is settled proposition of law that such administrative transfers cannot be ordinarily interfered, unless under few exceptions. One said proposition was made by the Hon'ble Supreme Court in the case of **State Bank Of India vs Anjan Sanyal & Ors** reported in (2001) 5 SCC 508. Since the grounds raised by the petitioner does not fall on any of the such exceptions in order to invoke the powers of this Court under Article 226 of the Constitution of India for the purpose of interfering with a transfer order, the writ petition does not deserves consideration.

10.Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

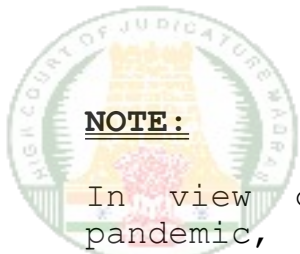
Sd/-

Assistant Registrar (CSIII)

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Sub Assistant Registrar(CS)



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.

+1 CC to M/s.V.PANNEER SELVAM, Advocate (SR-5518[F] dated 17/02/2021)

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-5598[F] dated 17/02/2021)

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VR(CO)

KB(04.03.2021) 4P 3C