



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2021

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. (MD) Nos.1488, 1490, 1492 and 1493 of 2021

and

C.M.P (MD) .Nos.6114, 6116, 6119 and 6122 of 2021

- | | |
|-------------------|--|
| 1. P.Devaraju | ... Appellant/Petitioner/Petitioner
in W.A(MD) .No.1488 of 2021 |
| 2. J.Amalanathan | ... Appellant/Petitioner/Petitioner
in W.A(MD) .No.1490 of 2021 |
| 3. Antonysamy | ... Appellant/Petitioner/Petitioner
in W.A(MD) .No.1492 of 2021 |
| 4.Thaaarcis Albin | ... Appellant/Petitioner/Petitioner
in W.A(MD) .No.1493 of 2021 |
| Vs. | |

1. The Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli - 627 008.

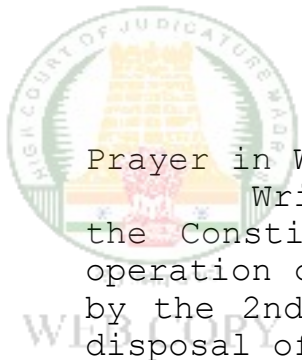
2. The Secretary,
St.Xavier's College (Autonomous),
Palayamkottai,
Tirunelveli - 627 002.

... Respondents/Respondents/
Respondents
(in all Writ Appeals)

Common Prayer: Writ Appeals filed under Clause 15 of Letters Patent, against the order of this Court made in W.M.P(MD) .Nos.9219,9238,9216 & 9221 of 2021 in W.P.(MD) Nos.11730, 11748, 11728 & 11734 of 2021 Respectively, dated 14.07.2021.

Prayer in WMP(MD) .No. 9219 of 2021 :

Writ Miscellaneous Petition is filed under Article 226 of the Constitution of India, to pass an order of Interim Stay on operation of the impugned order of Punishment dated 05.07.2021 issued by the 2nd respondent and all proceedings arising therein, pending disposal of this Writ Petition.



Prayer in WMP(MD).No. 9238 of 2021 :

Writ Miscellaneous Petition is filed under Article 226 of the Constitution of India, to pass an order of Interim stay on operation of the Impugned Order of Punishment dated 5.07.2021 issued by the 2nd Respondent and all proceedings arising therein, pending disposal of this Writ Petition.

Prayer in WMP(MD).No. 9216 of 2021 :

Writ Miscellaneous Petition is filed under Article 226 of the Constitution of India, to pass an order of Interim stay on operation of the Impugned Order of Punishment dated 05/07/2021 issued by the 2nd Respondent and on all proceedings arising therein pending disposal of this Writ Petition.

Prayer in WMP(MD).No. 9221 of 2021 :

Writ Miscellaneous Petition is filed under Article 226 of the Constitution of India, to pass an order of interim stay an operation of the order of Punishment dt 5.7.2021 issued by the 2nd respondent and on all proceedings arising therein pending disposal of this Writ Petition.

Prayer in WP(MD).No. 11730 of 2021 :

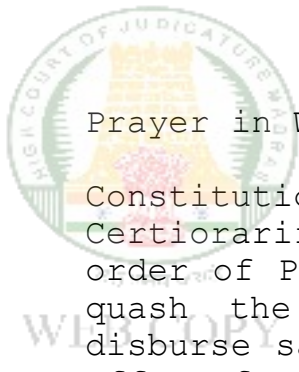
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified mandamus, calling for the records pertaining to the order of Punishment dated 05.07.2021 issued by the 2nd respondent herein, quash the same and consequently direct the 2nd respondent to disburse salary increments that have accrued to the petitioner with effect from July 2021.

Prayer in WP(MD).No. 11748 of 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to pass an order, Writ or a Direction more particularly in the nature of a Writ of Certiorarified Mandamus calling for the records pertaining to the Order of Punishment dated 05.07.2021 issued by the 2nd Respondent herein, quash the same and consequently direct the 2nd Respondent to disburse salary increments that have accrued to the Petitioner with effect from July 2021.

Prayer in WP(MD).No. 11728 of 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order of Punishment dated 05/07/2021 issued by the 2nd Respondent herein , quash the same and consequently direct the 2nd respondent to disburse salary increments that have accrued to the petitioner with effect from July 2021.



Prayer in WP(MD).No. 11734 of 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order of Punishment dt 5.7.2021 issued by the 2nd respondent herein quash the same and consequently direct the 2nd respondent to disburse salary increments that have accrued to the petitioner with effect from July 2021.

For Appellant : Ms.D.Geetha (in all W.As)

For Respondents : Mr.A.K.Manikkam,
Standing Counsel for Government
for R1 (in all W.As)

COMMON JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

We have heard Ms.D.Geetha, learned counsel appearing for the appellants and Mr.A.K.Manikkam, learned Government Counsel appearing for the first respondent.

2. The appellants are aggrieved by the order passed by the learned Writ Court refusing to grant an order of interim stay of order of punishment imposed on the appellants vide proceedings dated 05.07.2021. There is a dispute with regard to the promotion granted to one Dr.S.Alphonsa as the Head of the Department in Economics in the second respondent-College.

3. The appellant in W.A(MD).No.1488 of 2021, had filed W.P (MD).No.10548 of 2021 praying for issuance of a Writ of Mandamus to forbear the first respondent herein, from approving the appointment of Dr.S.Alphonsa as HOD, i/c of the Department of Economics in the second respondent-College and to direct the second respondent to designate the appellant Mr.P.Devaraju as Head of Department in the Department of Economics, as per G.O.Ms.No.1785, Education Department, dated 05.12.1988.

4. In the said writ petition, an order of interim injunction was sought for in W.M.P(MD).No.8212 of 2021. The learned Writ Court by order dated 25.06.2021 granted an order of interim injunction. The operative portion of the order reads as follows:

"The learned counsel appearing for the petitioner submitted that the petitioner is the senior-most member of Economics Department. The fourth respondent is an Assistant Professor in the History Department, which is an ancillary to the Economics Department. The studies of the students through on-line classes for the Academic Year 2020-21 is affected due to the designation of the fourth respondent as the Head of the Department in-charge of Economics



Department. As the Head of the Department, the fourth respondent has to re-evaluate 10% of the answer sheets of the students, which would have been already evaluated by the Professors. As an Assistant Professor in History, the fourth respondent cannot handle such work due to her specialization in History.

2. Considering the above facts, there shall be an order of interim injunction restraining the second respondent from giving approval for the appointment of the fourth respondent as Head of the Department in-charge of Economics Department of the third respondent College till 16.07.2021.

3. Notice to the respondents returnable by 16.07.2021. Private notice is also permitted."

5. It appears that there were certain disputes which lead to issuance of show cause notice dated 17.06.2021, alleging that the appellants have violated the norms of the College and not respecting the superiors, namely, Principal in charge, Controller of Examination and HOD i/c of the concerned Department. Therefore, the appellants were called upon to submit their explanations and five issues were pointed out. The appellants submitted their explanations on 23.06.2021, after which, the order of punishment was passed on 05.07.2021. The punishment imposed is stoppage of increment with cumulative effect from July 2021. Admittedly, the punishment is a major punishment and before imposing the same, an enquiry ought to have been conducted.

6. Therefore, in our view, the appellants have made out a *prima facie* case for grant of an interim order. Since notice is yet to be served in the writ petitions, we are of the view that if interim protection is granted to the appellants for a limited period, the appellants can be permitted to pursue in the writ petitions and obtain further orders.

7. Accordingly, these **Writ Appeals are allowed** and the order of punishment dated 05.07.2021, shall remain stayed till 27.08.2021.

8. Registry is directed to list the writ petitions during the third week of August 2021. As directed by the learned Writ Court, the appellants are directed to serve notice on the respondents in the writ petitions. We have disposed of the writ appeals at the admission stage, since the appellants are aggrieved by the decision of the learned Writ Court in refusing to grant an ex-parte order of interim stay and as per the convention of this Court, the respondents need not be heard and prior notice is not required to be mandatorily served on the respondents when the writ petitions are heard for admission nor there is any provision for filing a caveat petition in a writ petition.



9. Therefore, we are well justified in allowing these appeals and granting an order of interim stay till 27.08.2021 and directing the writ petitions to be heard. It will be well open to the learned Writ Court to consider as to whether the interim order should continue further after the respondents in the writ petitions enter appearance and make their submissions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Writs)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pkn

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 Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli - 627 008.
2. The Section Officer, Writ Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.SPL GP (SR-24421 to 24423[F] dated 29/07/2021)

+4 CC to M/s.D.GEETHA, Advocate (SR-24518 to 24521[F] dated 29/07/2021)

W.A. (MD)Nos.1488, 1490, 1492 and 1493 of 2021

and
C.M.P (MD) .Nos.6114, 6116, 6119 and 6122 of 2021
28.07.2021

MJ(CO)
TR(10.08.2021) 5P 8C