



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD)No.20942 of 2019

and

W.M.P (MD)Nos.17515, 17517, 17519, 21311, 21317 & 21320 of 2019

K.Vanathi

... Petitioner

vs.

1.The Director of Technical Education,
O/o.The Director of Technical Education,
Chennai - 600 025.

2.The Governing Council of Pattukottai Polytechnic College,
Pattukottai - 614 601.

3.The Principal,
Pattukottai Polytechnic College,
Pattukottai - 614 601.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned proceedings No.2768/M/2015, dated 30.08.2019 issued by the third respondent and the amendment impugned proceedings No.2768/M/2015, dated 31.08.2019, issued by the third respondent and quash the same as illegal and consequently, direct the respondents to reinstate the writ petitioner as Junior Drafting Officer (Special Grade) ECE Department in Pattukottai Polytechnic College, Pattukottai with full backwages, continuity of service and all other attendant benefits, within the time limit fixed by this Hon'ble Court.

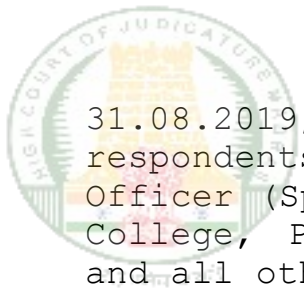
For Petitioner : Mr.VR.Shanmuganthan
for Mr.M.Dinesh

For R - 1 : Mr.P.Subbaraj
Government Advocate

For RR 2 & 3 : Mr.M.R.S.Prabhu
for Mr.V.K.Vijaya Raghavan

ORDER

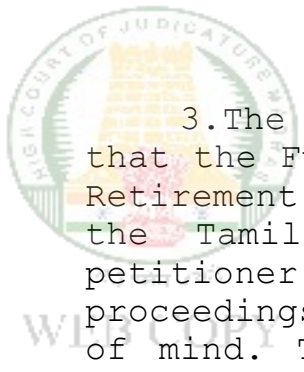
The petitioner has filed the present Writ Petition, to quash the impugned proceedings, dated 30.08.2019, passed by the third respondent and the amendment impugned proceedings, dated



31.08.2019, passed by the third respondent and to direct the respondents to reinstate the writ petitioner as Junior Drafting Officer (Special Grade), ECE Department in Pattukottai Polytechnic College, Pattukottai with full backwages, continuity of service and all other attendant benefits.

WEB COPY

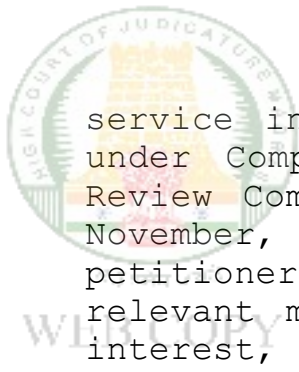
2. According to the petitioner, Pattukkottai Polytechnic Society was registered under the Tamil Nadu Societies Registration Act, 1975, on 16.10.1982 and the said Society established the third respondent College and the same was governed by the Directorate of Technical Education, Chennai and the Rules and Regulations of All India Council for Technical Education (AICTE), New Delhi. Further, according to the petitioner, she was working as a Junior Drafting Officer in the third respondent College. She was discharging the duties assigned to her sincerely without any blemish. While so, on 23.01.2015, the third respondent College orally instructed the Head of the Department to inform the petitioner to hand over the Digital Electronics and Integrated Circuits Practical Classes to one R.Brindha. Without any objections, the petitioner agreed and handed over the classes to R.Brindha and thereafter, the petitioner was assigned to take care of Circuit connections components identification, reading taken, graph tracing and student attendance maintenance, students councilings etc. In the circumstances, the third respondent College issued a show-cause notice, dated 17.08.2015, stating that the petitioner has not discharged the duties assigned by the Head of the Department and directed to submit her explanation. The petitioner submitted her explanation on 19.08.2015. Without considering the explanation submitted, a charge-memo, dated 31.08.2015, was issued to the petitioner, containing three charges. The petitioner submitted her explanation to the said charge-memo on 07.09.2015. Subsequently, she was permitted to continue the work assigned to her without any whisper till 30.08.2019. While so, on 03.09.2019, when the petitioner went to the third respondent College, she was not permitted to work and she was directed to meet the Principal of the third respondent College. On enquiry, the Principal of the third respondent College orally informed her that as per recommendation made by the Governing Council, on the disciplinary proceedings initiated against the petitioner in the year 2015, she was relieved from the service by invoking Fundamental Rules of the Tamil Nadu Government Compulsory Retirement Scheme and orders will be sent to her through post. As stated by the Principal of the third respondent College, the impugned proceeding, dated 30.08.2019 was served on the petitioner through registered post on 06.09.2019 and the subsequent amendment impugned proceeding, dated 31.08.2019. Challenging the same, the petitioner has come out with the present Writ Petition.



3.The learned counsel appearing for the petitioner submitted that the Fundamental Rules of the Tamil Nadu Government Compulsory Retirement Scheme is applicable only to the Government servants of the Tamil Nadu Government and not to the employees, like petitioner working in the private aided Colleges. The impugned proceedings are passed without any notice and without application of mind. There is no material for compulsory retirement of the petitioner in public interest. The impugned order of retirement is only punishment imposed on the petitioner. The third respondent issued a charge-memo, dated 31.08.2015 and the petitioner submitted her explanation on 07.09.2015. Without proceeding further, in the year 2019 suddenly the petitioner was prevented from attending work from 03.09.2019 and the impugned order of compulsory retirement is only a punishment on the petitioner without any notice and without conducting any enquiry. The third respondent College has no power to pass the impugned order imposing compulsory retirement of punishment and prayed for setting aside the impugned order.

4.The third respondent filed counter-affidavit along with the vacate stay petition and also filed the typed set of papers, dated 21.06.2021.

5.The learned counsel appearing for the respondents 2 and 3 referred to the averments in the counter-affidavit and the documents filed in the typed set of papers and submitted that the petitioner, who was working in the Institution, has not taken any steps to improve her skills, which are essential requirement for a Junior Drafting Officer. The petitioner studied Diploma in Electronics and Communication Engineering. Hence, she was asked to take care of the Computer and inter-com maintenance in addition to the routine work at ECE Department on 23.01.2015. The petitioner refused to do the work and informed that it was the work of office staff and not that of Junior Drafting Officer. The third respondent issued a show-cause notice and charge-memo to the petitioner. On 19.08.2015, the petitioner gave explanation to the show-cause notice and continued her service adamantly without doing any work and disobeyed all the works assigned to her. Her intention was to get salary every month from the Government without doing any work. Hence, the Chairman of the Governing Council of the Institution gave a charge-memo, based on the letter of the third respondent, dated 28.08.2015. Not satisfied with her explanations, the Chairman had constituted a Committee by proceedings, dated 09.11.2018 to review her case. The Review Committee submitted its recommendation on 15.11.2018, with a detailed report. The Chairman, Governing Council accepted the recommendation of Review Committee and directed the third respondent to execute the recommendation, vide proceedings, dated 09.08.2019. Hence, the petitioner was relieved on 30.08.2019 from



service in public interest with three months pay and allowances under Compulsory Retirement based on the recommendation of the Review Committee. The pay and allowances for September, 2019 to November, 2019, totalling Rs.2,33,268/-, was paid to the petitioner. The Chairman, Governing Council, considering all the relevant materials and report of the Review Committee in public interest, ordered compulsory retirement. The Governing Council of the third respondent College is the Appellate Authority for non-teaching staff, including the petitioner and the first respondent has no power to pass the order, dated 04.10.2019 and prayed for dismissal of the Writ Petition.

6. Heard the learned counsel appearing on either side and perused the entire materials available on record.

7. From the above rival submissions and the materials available on record, it is seen that while the petitioner was working as a Junior Drafting Officer in the third respondent College, a show-cause notice was issued on 17.08.2015 to the petitioner, alleging certain misconducts and called upon the petitioner to submit her explanation. The petitioner submitted her explanation on 19.08.2015. After receipt of her explanation, a charge-memo, dated 31.08.2015 was issued to the petitioner. The petitioner submitted her explanation to the charge-memo on 07.09.2015. From the year 2015, no further action was taken on the charge-memo, dated 31.08.2015. The petitioner worked in the third respondent College till 30.08.2019. During this period, the third respondent College has not alleged any misconduct and did not find fault in the work of the petitioner. Only on 03.09.2019, the petitioner was not permitted to discharge her duties. According to the petitioner, when she enquired about the same, the Principal of the third respondent College orally informed the petitioner that based on the disciplinary proceedings initiated in the year 2015, the petitioner was relieved by invoking Fundamental Rules and the third respondent College informed the petitioner that the order will be served on her by registered post.

8. On a perusal of the materials available on record, it is seen that by the order, dated 30.08.2019, compulsorily relieving the petitioner, was served on 06.09.2019. A mistake was crept in with regard to the date of compulsory retirement of the petitioner and the same was corrected by the impugned order, on 31.08.2019 and the same was served on the petitioner on 07.09.2019 (date 30.03.2019 was corrected as 30.08.2019).

9. From the above materials, it is seen that the order of compulsory retirement was not served on the petitioner either on 30.08.2019 or on 03.09.2019, when the petitioner was prevented from discharging her duties. Further, it is pertinent to note that



in the impugned order, in reference column, it is stated that the Chairman, Governing Council proceedings/charge memo, dated 31.08.2015; explanation, dated 19.08.2015 and 07.09.2015 and office note of the Correspondent, dated 22.08.2019. The reference to the charge-memo and explanation of the year 2015 clearly shows that the petitioner was compulsorily retired by way of punishment. The respondents 2 and 3 have not conducted any domestic enquiry, after issuance of charge-memo, dated 31.08.2015 and receipt of explanations, dated 19.08.2015 and 07.09.2015. Further, the respondents have not produced the recommendation of the Review Committee constituted by the Chairman, Governing Council and note of the Correspondent, dated 22.08.2019. No material is placed before this Court to show as to how the respondents 2 and 3 came to the conclusion that "due to doubtful integrity / ineffective on duty", the petitioner was relieved from service. No materials were placed on record to show that what are all the documents and service records of the petitioner, pertaining to the service of 30 years, were considered by the Review Committee for their recommendation. In the counter-affidavit filed by the third respondent, it has been stated that the petitioner did not obey the instructions of the third respondent and refused to discharge the duties assigned to her. In the counter-affidavit, no details have been furnished as to when instruction was given by the third respondent to the petitioner to discharge certain functions and she refused to do work. Further, in the counter-affidavit filed by the third respondent, it has been stated that the first respondent has no power to pass the order, dated 04.10.2019.

10.For the above reasons, the impugned order, dated 30.08.2019 and the subsequent amendment proceeding, dated 31.08.2019, passed by the third respondent, are liable to be set aside and the same are set aside.

11.With the above directions, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

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.

To

The Director of Technical Education,
O/o.The Director of Technical Education,
Chennai - 600 025.

+1 CC to Mr.V.K.VIJAYARHAGAVAN, Advocate (SR-20593[F] dated 29/06/2021)

+1 CC to SPL GP (SR-20751[F] dated 30/06/2021)

**W.P(MD)No.20942 of 2019
29.06.2021**

KM(09.07.2021) 6P 4C