



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.9923 of 2018

and

W.M.P.No.11854 of 2018

Dr.R.Karthikeyan

... Petitioner

Vs.

Anjalai Ammal Mahalingam Engineering College
Rep. by its Administrator / Managing Trustee
Kovilvenni
Thiruvarur District 614 403.

... Respondent

Prayer: Writ Petition filed Under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling of the concerned records the respondent, quash the Charge Memo dated 24.02.2018 issued by the respondent and direct the respondent to pay the salary for the period from 25.09.2015 to 22.04.2017 being the date when the petitioner completed 65 years of age and attained superannuation.

For Petitioner

: Mr.Balan Haridas

For Respondent

: Mr.A.P.Suriya Prakasam



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ORDER

The charge memo dated 24.02.2018 issued against the writ petitioner after his retirement is under challenge in the present writ petition.

2. The petitioner states that he was holding the post of Principal in the respondent College. The petitioner was earlier terminated from service in proceedings dated 25.09.2015, when he was working in the respondent College. The said order of termination was challenged in W.P.No.31671 of 2015 and this Court allowed the writ petition on 18.09.2017 on the ground that the order of termination was issued without following the procedures as contemplated and in violation of the principles of natural justice. The respondent was granted with liberty to reopen the case and proceed with the disciplinary proceedings in accordance with law and by affording opportunity to the petitioner.

3. However, the learned counsel for the petitioner made a submission that no such opportunity was granted and the petitioner was issued with a charge memo in proceedings dated 24.02.2018, which is impugned in the present writ petition after allowing him to retire from service. It is not in



dispute that the petitioner was allowed to retire from service and the respondent has not issued any order of suspension or retained the services of the writ petitioner for the purpose of conducting departmental disciplinary proceedings.

4. The departmental disciplinary proceedings may be initiated only if there is lien between the employer and employee. If the relationship of the employer employee ceased to exist, then the departmental disciplinary proceedings cannot be initiated against the employee. In the present case, the petitioner was allowed to retire from service on 22.04.2017 and he was neither placed under suspension nor his services are retained and therefore, the charge memo issued against the writ petitioner after retirement is untenable. Employer-employee relationship ceased to exist between the petitioner and the respondent and thus, the respondent is bound to settle the terminal and pensionary benefits due to the writ petitioner.

5. The learned counsel for the respondent made a submission that the petitioner has not served in the College in-between the period of termination and the date of retirement. Thus, for the said period, the petitioner is not



entitled for backwages as the principles of 'no work no pay' has to be applied. As far as the continuity of service is concerned, the period is to be taken into consideration for calculation of qualifying services and accordingly, the petitioner is to be treated as a retired employee of the Institution and all his terminal and pensionary benefits are to be settled.

6. Accordingly, the charge memo issued in proceedings dated 24.02.2018 by the respondent is quashed and the respondent is directed to settle the terminal and pensionary benefits as applicable to the petitioner without back wages within a period of 12 weeks from the date of receipt of a copy of this order.

7. With the above direction, the Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Jeni
Index : Yes
Speaking order



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To

The Administrator / Managing Trustee
Anjalai Ammal Mahalingam Engineering College
Kovilvenni
Thiruvarur District 614 403.



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S.M.SUBRAMANIAM, J.

Jeni

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