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IN THE HIGH COURT OF JUDICATURE AT MADRAS

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|---------------|------------|
| Reserved On   | 10.01.2022 |
| Pronounced On | 17.02.2022 |

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.Nos.5836 of 2019 & 15341 of 2020  
and

W.M.P.Nos.6673 & 6675 of 2019  
and 19185 & 19186 of 2020

(Through Video Conferencing)

W.P.No.5836 of 2019:-

Dr.Sasikanta Dash

...Petitioner

-Vs-

- 1.The Secretary to Government,  
Government of India,  
Ministry of Human Resource Development (MHRD),  
Department of Higher Education,  
Shastri Bhawan,  
New Delhi.
- 2.The Secretary to Government,  
Higher and Technical Education Department,  
Chief Secretariat,  
Puducherry.
- 3.Dr.Grurmeet Singh
- 4.The Vice Chancellor cum  
Chairman of Executive Council,  
Pondicherry University,  
R.Venkatraman Nagar,  
Kalapet, Puducherry 605 014.
- 5.The Deputy Registrar (Administration),  
Pondicherry University,  
R.Venkatraman Nagar,  
Kalapet, Puducherry 605 014.



6.Dr.B.Chitra

7.Pondicherry University SC/ST

Employees Welfare Associations,  
represented by its President,  
Pondicherry University,  
R.Venkatraman Nagar,  
Kalapet, Puducherry 605 014.

8.The Director,  
Central Bureau of Investigation,  
Chennai.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 5<sup>th</sup> respondent in his proceedings PU/Estt/NT10/2019/362 dated 20.02.2019 quash the same and consequently forebear the respondents from disturbing the service of the petitioner as the Registrar of the respondent University till the period of deputation is over as per the appointment order dated 02.07.2018.

For Petitioner : Mr.Vijay Narayan Senior Counsel  
for Mr.C.Vigneswaran

For R1 : Mr.V.Ashok Kumar,  
Central Government  
Standing Counsel

For R2 : Mr.R.Syed Mustafa  
Government Pleader (Pondy)

For R3 & R4 : Mr.M.Ravi

For R5 & R6 : M/s.A.V.Bharathi

W.P.No.15341 of 2020:-

Dr.Sasi Kanta Dash

...Petitioner



-Vs-

1. The Secretary to Government,  
Ministry of Human Resource Development,  
Department of Higher Education,  
Government of India,  
Shastri Bhawan,  
New Delhi 110 001.
2. The Vice Chancellor,  
Pondicherry University,  
Kalapet, Puducherry 605 104.
3. The Secretary to Government,  
Higher and Technical Education Department,  
Government of Puducherry,  
Chief Secretariat, Puducherry.
4. The Assistant Registrar (Incharge),  
Recruitment Cell,  
Pondicherry University,  
R.V.Venkatraman Nagar,  
Kalapet, Puducherry 605 014.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari Mandamus, calling for the records relating to 4<sup>th</sup> respondent's impugned recruitment notification in Advt.No.PU/RC/2020/37, dated 08.09.2020 pertaining to the Post of 'Registrar' alone, and quash the same and consequently direct the 4<sup>th</sup> respondent not to issue any recruitment notification for the post of 'Registrar' till the disposal of W.P.No.5836 of 2019.

For Petitioner : Mr.Vijay Narayan, Senior Counsel  
for Mr.C.Vigneswaran

For R1 : Mr.V.Ashok Kumar,  
Central Government  
Standing Counsel

For R2 : Mr.M.Ravi

For R3 : Mr.R.Syed Mustafa  
Government Pleader (Pondy)



## COMMON ORDER

The short points for consideration in these Writ Petitions are as follows:-

- i. Whether the appointment of the petitioner was by way of Direct Recruitment or whether by way of Deputation?
  - ii. Whether the respondents were justified in relieving the petitioner without issuing any prior notice? and
  - iii. Whether the relieving of the petitioner from the respondent Pondicherry University was in accordance with the Rules and Regulation of the said University?
2. In W.P.No.5836 of 2019, the petitioner has challenged impugned order dated 20.02.2019 bearing reference PU/ESTT/NT10/2019/362 of the fifth respondent and prays for quashing the impugned order and for forbearing the respondents from disturbing the service of the petitioner as the Registrar of the respondent University till the period of deputation is over as per the appointment order dated 02.07.2018.
3. By the impugned order dated 20.02.2019 bearing reference PU/ESTT/NT10/2019/362, the fifth respondent has communicated the decision of the Executive Council of the Puducherry University relieving the petitioner from the post of Registrar of the Puducherry University.
4. The impugned order dated 20.02.2019 relieving the petitioner from the post of the Registrar is based on the decision of the Executive Council Resolution dated 20.02.2019 taken during its 134<sup>th</sup> Emergency Meeting. The reasons given are as under: -

"During the last 8 months, the performance of Dr. Sasi Kanta Dash is far below satisfaction despite various requests, instructions, and reminders in person. It is found that many administrative matters, viz. review of Recruitment Rules, conduct of Departmental Promotion Committee, Modified Assured Career Promotion Scheme, Career Advancement Scheme, etc, had not taken place, leading to resentment and dissatisfaction among



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the employees, thereby adversely affecting the efficiency of the Organization and his continuance further in the University will not be in the public interest. Letters/Queries from MHRD/UGC etc. requiring urgent response have also not been attended to in time. Therefore, the continuance of Dr. Sasi Kanta Dash in the capacity of registrar, Pondicherry University shall impede the progress of the institution in all related areas and shall cause dissatisfaction among the stakeholders."

5. In W.P.No.15341 of 2020, the petitioner has challenged impugned Notification dated 08.09.2020, bearing reference Advt.no.PU/RC/2020/37 of the fourth respondent and prays for quashing the same and for consequential direction to the fourth respondent to not to issue any Recruitment Notification for the post of Registrar till the disposal of W.P.No.5836 of 2019.

6. At the time of admission of the above Writ Petition, an interim order was passed on 02.10.2020 by allowing the recruitment process to be completed and the appointment/selection was ordered to be subject to the final outcome of the order to be passed in W.P.No.5836 of 2019.

7. I have heard the learned senior counsel for the petitioner and the learned counsel for the respondents. I have also perused the affidavit and documents filed in support of the present Writ Petitions and the counter affidavit filed on behalf of the respondents.

8. The brief facts of the case are that the petitioner was initially appointed as a Lecturer in Donyi Polo Government College, Arunachal Pradesh in the year 1999 on regular basis. Thereafter, the petitioner was transferred to the Government College, Bomdila in Arunachal Pradesh in the same post.

9. Subsequently, the petitioner was appointed as an Assistant Professor in Avvaiyar Government College for Women through UPSC, New Delhi and the petitioner was in the same post during the period between 2006 and July 2010. Thereafter, the petitioner was appointed as the Principal in the following three colleges in the Union Territory of Puducherry, namely:-

- 1) Aringar Anna Arts and Science College, Karaikal.



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2) Barathidasan Government College for Women,  
Puducherry.

3) Tagore Government Arts and Science College,  
Puducherry.

10. The petitioner cumulatively served a period of eight year in these three colleges. It is submitted that on 04.10.2017, the then Registrar of the respondent Pondicherry University issued a Recruitment Notification vide RC/2017/29, dated 04.10.2017 to fill up the following vacant posts both by way of direct recruitment and/or by deputation:-

- " i. The Registrar.
- ii. The Finance Officer; and
- iii. The Controller of Examinations."

11. The above Recruitment Notification was on again re-advertised by the then Registrar of the Pondicherry University on 15.12.2017 as the above post could not be filled up within time stipulated in the said Notification.

12. On 31.12.2017, the petitioner applied for the post of Registrar pursuant to the Recruitment Notification dated 15.12.2017. The petitioner was thereafter shortlisted and called for an interview before the Selection Committee along with 68 others. The petitioner's name was eventually recommended by the Selection Committee.

13. Based on the recommendations of the Selection Committee, the petitioner was selected as the Registrar of the respondent Pondicherry University pursuant to the resolution dated 02.07.2018 of the Executive Council of the respondent Pondicherry University.

14. Office Order No.61, dated 02.07.2017 was issued by the fifth respondent (in W.P No.5836 of 2019), as per which, the petitioner was required to execute an agreement in terms of the Administrative Ordinances of Pondicherry University for Contract of Services for Officers. Office Order No. 61 dated 02.07.2018 reads as follows:-

"Consequent upon the approval by the Executive Council vide Resolution fourth cited based on the recommendations of the selection committee third cited above Dr. Sasi Kantha



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Dash, Principal, Tagore Arts College, Puducherry is appointed as Registrar, Pondicherry University, for a period of five years from the date of joining.

He is eligible to draw the pay of Rs. 1,44,200/- (Level 14) and other allowance as prescribed in the university Rules.

He is advised to report for duty at the earliest along with requisite documents connected with his relieving of service from the parent department. He shall execute an agreement as per the Administrative Ordinance of Pondicherry University for Contract of Service for Officers.

His appointment will be governed by the rules and regulation of this University and other norms stipulated by the UGC/MHRD from time to time".

15. Both parties confirm no such agreement was executed. Vide G.O.Ms.No.25, Higher and Technical Education, dated 05.07.2018, the then Lieutenant Governor of Puducherry also sanctioned the Deputation of the petitioner in the Pondicherry University to assume the post of Registrar for a period of five years and relieved the petitioner from the Administration of the Principal of Tagore Government College of Arts and Science by the Government of Puducherry on 05.07.2018 with an instruction to report to duty at the Pondicherry University. The order also stipulated the terms and conditions of deputation will be issued by the Pondicherry University. The above mentioned Government Orders reads as under :-

"CHIEF SECRETARIAT

(HIGHER & TECHNICAL EDUCATION)

G.O Ms.No: 25

Dated:05.07.2018

READ: 1. Letter No. PU/ESTT/NT10/2017-18/56, dated 02.07.2018 of the Registrar in charge, Pondicherry University, Puducherry

2. I.D Note No.5032/DHTE/ESTT/E1/2018/92, dated 04.07.2018 of the Director of Higher & Technical Education, Puducherry.



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## ORDER

The Lieutenant Governor, Puducherry is pleased to sanction deputation of Dr.Sasi kanta Dash, Principal Tagore Government Arts & Science College, Puducherry for a period of 5years.

Dr. Sasi Kanta Dash is relieved from this Administration on the forenoon of 05.07.2018, with instruction to report for duty before the vice chancellor, Pondicherry University, Puducherry

The terms and condition of his deputation will be issued by Pondicherry University, Puducherry.

/BY THE ORDER OF THE LIEUTENANT GOVERNOR/"

16. Thereafter, on 16.07.2018, an Office Order No.65 was issued by the respondent Pondicherry University. It confirmed that the petitioner was appointed as the Registrar of Pondicherry University for a period of five years on "deputation". Office Order No.65 dated 16.07.2018 issued by the Pondicherry University reads as follow:-

"In pursuant of the ref. (1) cited Dr. Sasi Kanta Dash who is appointed as Registrar of this University for a period of five years has assumed the charge as Registrar of this University on 05.07.2018 A.N on deputation basis.

His pay in the post of Registrar is fixed at Rs.1,44,200/- (Level 14) and other allowance as prescribed in the University Rules.

However, he may exercise his option for fixation of pay within a month from the date of receipt of this order.

His appointment in the University will be governed by the Rules & Regulation of this University, the terms and conditions of Deputation as provided in the GOI guidelines and other norms stipulated by UGC."



17. The petitioner assumed the charge as the Registrar of the University on 05.07.2018 A.N. on deputation. Thus, the appointment of the petitioner was not by way of direct appointment. The said appointment was governed by the Rules and Regulation of the respondent Pondicherry University, the terms and condition of deputation as provided in the GOI guidelines and other norms stipulated by UGC.

18. Within seven months after the petitioner assumed the office of the Registrar in the respondent Pondicherry University, the petitioner received an email from the Deputy Registrar (Administration), Pondicherry University on 20.02.2014. The petitioner was informed that he was being relieved from the office of Registrar, Pondicherry University, based on the decision of the Executive Council Meeting and copy of the relieving order was attached therewith.

"As mentioned above, the reason was that during the last 8 months, the performance of Dr. Sasi Kanta Dash is far below satisfaction despite various requests, instructions, and reminders in person. It is found that many administrative matters, viz. review of Recruitment Rules, conduct of Departmental Promotion Committee, Modified Assured Career Promotion Scheme, Career Advancement Scheme, etc, had not taken place, leading to resentment and dissatisfaction among the employees, thereby adversely affecting the efficiency of the Organization and his continuance further in the University will not be in the public interest. Letters/Queries from MHRD/UGC etc. requiring urgent response have also not been attended to in time. Therefore, the continuance of Dr. Sasi Kanta Dash in the capacity of registrar, Pondicherry University shall impede the progress of the institution in all related areas and shall cause dissatisfaction among the stakeholders."

19. The challenge to the impugned decision relieving the petitioner from the post of Registrar is primarily based on the ground of violation of principal of natural justice. It is submitted that before passing the impugned relieving order, neither a notice was issued, nor an enquiry was held. It is submitted that the petitioner did not attract any of the



situation contemplated under the Rules for being removed unceremoniously before completion of the tenure.

20. Under these circumstances, the petitioner sent representations dated 20.02.2019 to the second and the third respondents. Subsequently, the petitioner sent representation dated 31.08.2019 to the second respondent to not to appoint anyone to the post of Registrar.

21. The fourth respondent thereafter issued the impugned Recruitment Notification dated 08.09.2020 (impugned in W.P.No.15341 of 2020) calling for fresh application for the post of the Registrar. Aggrieved by the same, the petitioner filed W.P.No.15341 of 2020.

22. The learned Senior counsel for the petitioner relied on the following Judgments: -

- i. Union of India through the Govt. of Pondicherry and another Vs. V.Ramakrishnan and others, 2005 (8) SCC 394.
- ii. Union of India and another Vs. Shardindu, 2007 (6) SCC 276.

23. The second respondent in its counter affidavit has stated that after appointment as the Registrar of the Pondicherry University, the petitioner was relieved from his original post of Principal with effect from the forenoon of 05.07.2018 with the approval of the appointing authority for Group "A" Officers viz., the Lieutenant-Governor, Puducherry vide G.O.Ms.No.25, dated 05.07.2018.

24. It is submitted that the impugned Office Order No. PU/ESTT/NT10/2019/362 dated 20.02.2019 relieving the petitioner from the post of Registrar, Pondicherry with effect from the afternoon of 20.02.2019 was in accordance with the decision of the Executive Council of the University, as the services of the petitioner was no longer required for the University, with instruction to the petitioner to report for duty before the parent Department i.e. The Directorate of Higher & Technical Education, Puducherry. It is submitted that the petitioner has also reported back to Tagore Government College of Arts and Science, Puducherry and was serving there as the principal.

25. It is submitted that the borrowing authority has no administrative obligation to consult the lending authority while curtailing the approved deputation period and hence the second respondent did not consult the lending Department.



26. The fourth respondent - Vice Chancellor cum Chairman of Executive Council submitted that the appointment order clearly shows that the petitioner was not appointed on deputation basis and that the said proceedings is nothing, but an offer of appointment and that the petitioner was mandatorily required to execute an agreement as per the Administrative Ordinances of Pondicherry University for contract of services for Officers.

27. It is submitted that the petitioner however failed to execute an agreement and enter into a contract binding as per the Administrative Ordinance of the Pondicherry University for contract of Service for Officers for reasons best known to him. It is therefore submitted that the petitioner was reverted back to Principal Tagore Government Arts and Science College, Puducherry.

28. It is therefore submitted that petitioner has not accepted the offer of appointment by executing the Agreement and therefore, does not have a right to enforce the proceedings/order dated 02.07.2018 on the basis of which relief has sought in the above writ petition.

29. It is further submitted that there is no provision under the Administrative Ordinances of Pondicherry University, for conversion of the method of appointment after the selection from the direct recruitment to that of appointment on deputation basis, especially for a candidate, who has neither applied through his parent department nor was eligible for such deputation in pursuance of the Original Notification dated 04.10.2017 and 15.12.2017.

30. It is further submitted that, the petitioner who was on deputation from his parent institute namely Tagore Government Arts and Science College, through as per O.R No.61 dated, 02.07.2018 and he was requested to execute an agreement as per the Administrative Ordinance of Pondicherry University for Contract of Service for Officers and since the petitioner failed execute the agreement, the petitioner cannot challenge the impugned order relieving the petitioner from the post of the Registrar.



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31. It is submitted that the recruitment Notification had made it clear, that the Mode of Selection was both "Direct Recruitment and on Deputation". The petitioner appears to have directly filed application without getting consent of the parent department.

32. Though, a somewhat conflicting submission was made on behalf the petitioner and respondents, it is evident that the petitioner's appointment as the Registrar was on Deputation on 05.07.2018 A.N., as observed above. This position stands confirmed by G.O. 25 dated 05.07.2018 of the Government and Office Order No. 65 dated 16.07.2018 of the 2nd respondent University.

33. It is perhaps for this reason, neither the petitioner executed the agreement, nor the respondents insisted on the same at the time of the appointment of the petitioner as the Registrar of the Respondent Pondicherry University.

34. Law on the subject has been settled by the Courts. A person on deputation does not have an indefeasible right to hold the said post. Ordinarily, the term of deputation should not be curtailed except on grounds such as, unsuitability or unsatisfactory performance. The ruling courts are clear and categorical. In this case, the stated reason is that the petitioner was inefficient and was unsuitable for the post.

35. In Union of India Vs. V. Ramakrishnan, (2005) 8 SCC 394, it was held as under:-

"32. Ordinarily, a deputationist has no legal right to continue in the post. A deputationist indisputably has no right to be absorbed in the post to which he is deputed. However, there is no bar thereto as well. It may be true that when deputation does not result in absorption in the service to which an officer is deputed, no recruitment in its true import and significance takes place as he is continued to be a member of the parent service. When the tenure of deputation is specified, despite a deputationist not having an indefeasible right to hold the said post, ordinarily the term of deputation should not be curtailed except on such just grounds as, for example, unsuitability or unsatisfactory performance. But, even where the tenure is not specified, an order of



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reversion can be questioned when the same is mala fide. An action taken in a post-haste manner also indicates malice. (See Bahadursinh Lakhubhai Gohil v. Jagdishbhai M. Kamalia [(2004) 2 SCC 65] SCC para 25.)"

36. In Kunal Nanda v. Union of India, (2000) 5 SCC 362, the Court held as under:-

"6. It is well settled that unless the claim of the deputationist for a permanent absorption in the department where he works on deputation is based upon any statutory rule, regulation or order having the force of law, a deputationist cannot assert and succeed in any such claim for absorption. The basic principle underlying deputation itself is that the person concerned can always and at any time be repatriated to his parent department to serve in his substantive position therein at the instance of either of the departments and there is no vested right in such a person to continue for long on deputation or get absorbed in the department to which he had gone on deputation."

37. In Union of India Vs. V. Ramakrishnan and others, (2005) 8 SCC 394, the views in Kunal Nanda Vs. Union of India, (2000) 5 SCC 362 was reiterated. In Parshotam Lal Dhingra Vs. Union of India, [1958] SCR 828, it was categorically held that when an appointment is made for a specific period, unless any disciplinary proceedings is initiated, a person will be entitled to hold the said post. The Court there had held that both High Court and the Tribunal cannot be said to have committed any error. The Court noted that the lending department was not consulted before reverting the respondent back. It was held as under:-

"12. The position may, therefore, be summarised as follows: In the absence of any special contract the substantive appointment to a permanent post gives the servant so appointed a right to hold the post until, under the rules, he attains the age of superannuation or is compulsorily retired after having put in the prescribed number of years' service or the post is abolished and his service cannot be terminated except by way of punishment for misconduct, negligence, inefficiency or any



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other disqualification found against him on proper enquiry after due notice to him. An appointment to a temporary post for a certain specified period also gives the servant so appointed a right to hold the post for the entire period of his tenure and his tenure cannot be put an end to during that period unless he is, by way of punishment, dismissed or removed from the service. Except in these two cases the appointment to a post, permanent or temporary, on probation or on an officiating basis or a substantive appointment to a temporary post gives to the servant so appointed no right to the post and his service may be terminated unless his service had ripened into what is, in the service rules, called a quasi-permanent service. The question for our consideration is whether the protections of Article 311 are available to each of these several categories of government servants."

38. In *Union of India Vs. Shardinu*, (2007) 6 SCC 276, the Hon'ble Supreme Court held that, when an appointment is made, the service conditions are laid down. The termination of such appointment could only be made in manner provided in the statute and by no other way.

39. Once the regulations have been framed and detailed procedure laid down therein, then in that case if the service of an incumbent are required to be terminated then that can only be done in the manner provided and none else.

40. There the Hon'ble Supreme Court affirmed the decision of the Delhi High Court i.e., Decision of the Division Bench affirming the decision of the Single Judge of Delhi High Court. The Learned Single Judge of the Delhi High Court had set aside the order passed by the Union of India dated 18.11.2005 purporting to terminate the deputation of the Respondent therein as Chairperson of the National Council for Teachers Education (NCTE).

41. The learned Single Judge thus had taken a view that there was no question of invoking the pleasure doctrine and the under Article 310 of the constitution of India, the Respondent was not on deputation therefore his service could not be terminated and could not be repatriated back to the State of Uttar Pradesh. It held that since the respondent was appointed



under the National Council for Teachers Education Act of 1993 and had not incurred any of the disqualification mentioned in the Act, therefore, his service could not be terminated.

42. As per Section 3 Sub-Section (4) clause (b) of the National Council for Teachers Education Act, 1993 a Chairperson was to be appointed by the Central Government and the term of Office as per Section 4 of the Act was for a period of Four Years, or till they complete the age of Sixty Years whichever is earlier.

43. In State of Kerala Vs. Mathai Verghese, (1986) 4 SCC 746, the Court held that the court can merely interpret the section and cannot re-write, recast or redesign a provision.

44. As far as the appointment of the petitioner in the present case is concerned, it was governed by the Rules and Regulation of the University, the terms and condition of the Deputation as provided in the GOI guidelines and other norms stipulated by UGC.

45. The terms and condition of deputation was to be issued by Pondicherry University, Puducherry, which was issued vide Office Order No.65 dated 16.07.2018. The Recruitment Notification itself stipulates the essential qualification and tenure. It was a tenurial post for a period of five years or 62 years whichever is earlier. Thus, the petitioner could be repatriated any time to the parent organisation.

46. As per section 11 of the Pondicherry University Act 1985, the post of a Registrar which was held by the petitioner was one of an officer of the University. As per Statute 4 of the Statute of the University appended in the Schedule to the said Act, the post of a Registrar is that of a "whole time salaried officer" of the University.

47. The expression "officer" has however not been defined either in the Pondicherry University Act 1985 or in the Statute (in the Schedule) appended to the said Act or in the Administrative Ordinance of Pondicherry University. As per sub-clause 1 to Section 16 of the aforesaid Act, the Registrar shall be appointed in such manner as may be prescribed in the Statute.

48. As per Statute 19, there shall be a Selection Committee for appointment of Director, Professor, Associate Professor, Registrar, Finance Officer, Controller of Examination, Librarian, and Principal of Colleges maintained by



the University. The Selection Committee consists of the following persons for appointment to the post of Registrar/Finance Officer/Controller of Examination:-

- (1) Vice Chancellor as the Chairperson of the Selection Committee.
- (2) An academician who is a nominee of the Visitor.
- (3) Three Experts in the concerned subject/field out of the list recommended by the Vice-Chancellor and approved by the Executive Council.
- (4) Dean of the faculty.
- (5) Head/Chairperson of the Department.

\* One representative of the SC/ST, Women and Physically handicapped should be in the Selection Committee whenever a candidate from any of these categories appears for the interview.

\* At Least 4 members including two outside experts, must constitute the quorum.

49. As per note 3 of Statute 19 of the Statute, the Selection Committee shall recommend appointment to the post of Registrar for a tenure of 5 years and such tenure may be renewed for similar terms by the Executive Council on the recommendation of the Vice Chancellor.

50. Provided in the case of an Officer from All India Service and Central Service, the appointment on Deputation to the post of Registrar shall be by the Executive Council on the recommendation of the Vice Chancellor or such terms and conditions as may be stipulated by the Government of India.

51. As per Section 31 of the Act, every "employee", (i.e teachers and other staff) shall be appointed under a written contract which shall be lodged with the University and a copy of which shall be furnished to the employee concerned. Thus, it is clear that at the time of direct recruitment, the appointing authority has to ensure that agreement is signed and a copy of the agreement/written contract is given to such an employee.

52. Section 31 of the Act deals with appointment of "Employee" of the University. The expression "employee" has been defined in section 2[i] of the Act. It means any person appointed by the University and includes "teachers" and "other staff" of the University. The expression "other staff" is of wide purport and amplitude.



53. The expression "employee" has also been separately defined in Rule 3(v) in Part-II (Ordinance Governing The Terms And Condition of Service of All Employees of The University Other Than Teachers) and also Rule 2(c) in Chapter III, Part-I (Ordinance Governing the Control and Appeal Of The Employees Of The University) of Administrative Ordinance of Pondicherry University. The respective definitions are reproduced as under:-

|                                                                                                                    |                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 2[i] of the Pondicherry University Act, 1985.                                                              | Rule 3(v) in Part-II (Ordinance Governing The Terms And Condition of Service of All Employees of The University Other Than Teachers) of the Administrative Ordinance of Pondicherry University.                | Rule 2(c) in Chapter III, Part-I, (Ordinance Governing The Control and Appeal Of The Employees of The University) of Administrative Ordinance of Pondicherry University.                                                                                                                                                                                                                                                                                                                                                                       |
| Employee means any person appointed by the University and includes "teachers" and "other staff" of the University. | 3.Unless the context otherwise requires, the various terms used in these rules will have the meaning as explained below.<br>(v) Employee (non-teaching) means a University Employee other than Teaching Staff. | "Employee" means any person in the service of the University, who is a member of a cadre on one of the categories of post created under the University and includes any such person on foreign service or whose service are temporarily placed at the disposal of another University or any other authority by the University and also any person in the service of a State Government or Central Government or a local or other authority or any other autonomous body hose service are temporarily placed at the disposal of the University. |



54. Statute 26 appended to the act, deals with removal of teachers. Statute 27 deals with removal of an "employees" who are other than teachers of the University. Under Statute 27 an employee (other than teachers) cannot be removed from office unless such an employee has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him. Such an employee (other than teachers) can be removed for the following reason:-

- a) If he is of unsound mind or is a deaf-mute or suffers from contagious leprosy;
- b) If he is an undischarged insolvent;
- c) If he has been convicted by a court of law of any offence involving moral turpitude or sentenced in respect thereof to imprisonment for not less than 6 months;
- d) If he is otherwise guilty of misconduct.

55. Such an employee (other than the teachers) can be removed for a reason other than above ground with a 3 month notice in writing or paid 3 months salary in lieu of such notice. Any dispute arising out of the contract between the University and an Employee, shall be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the Employee concerned and an Umpire appointed by the Visitor.

56. The decision of the Tribunal is final and no suit shall lie in any civil court in respect of the matter decided by the Tribunal. Every such request shall be deemed to be a submission to arbitration upon the terms of the set section within the meaning of Arbitration and Conciliation Act, 1996.

57. As per Rule 9(1) of the Administrative Ordinance of Pondicherry University, Part-II, only the Service of a "temporary employee" can be terminated by the Vice-Chancellor/Executive Council without assigning any reason at any time by a notice of one month in writing given to such employee forthwith or by payment to him of a sum equivalent to the amount of his pay plus allowance for the period of the notice at the same rates at which he was drawing them immediately before the termination of his service or as the case may be for the period of such notice falls short of one month.



58. As per Rule 9(2) of the Administrative Ordinance of Pondicherry University, the service of a permanent employee can be terminated by the Vice Chancellor/ Executive Council at any time by a notice of three months or on payment of pay and allowance drawn by him immediately before the termination of his service for such period as the notice falls short of three months or without notice on payment of three month's pay plus allowance drawn by him immediately before the termination of his service if the post in which he confirmed is abolished.

59. No Rules, have been cited for a person on deputation, If the appointment of the petitioner was on account of direct recruitment as was argued, such appointment would have been strictly governed by provisions of the Pondicherry University Act 1985, the Statute appended to the said Act and the Administrative Ordinance of Pondicherry University.

60. There is a subtle difference between the "Officers of the University" and the "Employees of the University". The "employees" are appointed by the University under a written contract. They could be "Permanent" or "Temporary Employee" of the University. They could be teaching staff or non teaching staff.

61. On the other hand, the post Registrar is that of a "wholetime salaried officers" of the University. Their appointment is as per the Statute. The terms and condition of service of a Registrar is prescribed under the Administrative Ordinance of Pondicherry University in terms of Statue 4(1)(2) of the Statute which reads as under:-

"(1)The Registrar is a whole time salaried officer of the University.

(2) The emoluments and other terms and conditions the Registrar shall be such as may be prescribed by the Administrative Ordinance of Pondicherry University .

\* Provided that the Registrar shall retire on attaining the age of Sixty Two or a tenure of five years.

(\*amended with approval of the Visitor vide MHRD Letter No. F.39-20/2006Desk (U( dated 20.3.2007) "



62. The terms and condition of service of the registrar is for a period or a tenure of 5 years or sixty two years which ever is earlier. The Registrar is not a whole time salaried employee of the University. A Registrar is a whole time salaried officer of the University. A Registrar could be appointed by Direct Recruitment or by Deputation to the post by the executive council on the recommendation of the Vice Chancellor on such terms and conditions as may be stipulated by the Government of India.

63. As per the Administrative Ordinance of Pondicherry University, the contract of service of the Registrar shall be signed on behalf of the University by the officer performing the duties of the Registrar at that time of appointment or by the Finance Officer of the University.

64. The Administrative Ordinance of Pondicherry University also prescribes the form of contract of service for officers. In this connection it will be useful to refer to Clause 4[1][A] of Administrative Ordinance of Pondicherry University is reproduced below:-

"1.The Registrar shall be a whole time salaried officer of the University and he/she shall receive pay besides allowance as admissible to the University staff, in the scale of pay Rs.16400-450-20900-500-22400 or as revised from time to time by the Executive Council. His/Her appointment shall be for a term of five years and it may be renewed for similar terms.

Provided that in the event of the Office of the Registrar being filled by obtaining the service of a person on deputation/ absorption, the salary and other service conditions shall be such as may be admissible to him according to the terms and conditions finalised in consultation with the Parent Organization.

2. Registrar shall perform his/her function and duties as laid down in the statute and ordinances.

3. Registrar shall be provided with unfurnished University accommodation for which he/she shall pay rent at the usual rate.





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### Major Penalties

- v. Reduction to lower stage in the time scale of pay for a specified period, with further direction as to whether or not the employee will earn increments of pay during the period of such reduction and whether on expiry of such period the reduction will or will not have the effect of postponing the further increments of his pay.
- vi. Reduction to a lower time scale of pay grade or post or service shall ordinarily be a bar to the promotion of the employee to the time scale of pay grade, post or service from which he was reduced with or without further direction regarding conditions of restoration to the grade or post or service from which such reduction has been made.
- vii. Compulsory Retirement.
- viii. Removal from Service.
- ix. Dismissal from Service.

68. As per Rule 7 (1), the Executive Council may impose any of the penalties specified in rule 6 on any employee. As per Rule (2), the vice Chancellor may impose on an employee any of the penalties specified in clauses (i) (ii) (iii) and (iv) of Rule 6.

69. Chapter-III, Part IV of Ordinance Governing the Control and Appeal of The Employees of The University deals with Procedure for Imposing Penalties. Rule 9(1) of Chapter-III, Part IV of Ordinance Governing the Control and Appeal of The Employees of The University reads as under: -

Rule 9(1).

No order imposing any of the penalties specified in clause (v) to (ix) of the Rule 6 shall be made except after an enquiry held as may be, in the manner provided in this Rule and Rule 11.

70. Explanation to Rule 6 in Part III of Ordinance Governing The Control And Appeal Of The Employees Of The University of (Administrative Ordinance of Pondicherry University) makes it clear that termination of the Service of an employee Employed under an agreement in accordance with the



terms of such agreement shall not amount to a penalty within the meaning of the rule. Similarly stoppage of an employee at the efficiency bar in the time scale of pay on the ground of his unfitness to cross the bar shall not amount to a penalty within the meaning of the rule.

71. Thus, reversion of the Petitioner to his Parent Department before the completion of his tenure is not a penalty. It cannot be said that under the above Rules, the petitioner was victimised though it may have resulted in a stigma. Since the decision of the Executive Council is in accordance with the provisions of the Rules. I do not find any reason to interfere. At the same time it has resulted in stigma to the petitioner. The reasons given are unnecessary in case of a person on deputation. Therefore I am inclined to partially allow this Writ Petition to that extent insofar as the impugned order stigmatizes the petitioner. To that extent the impugned order is liable to be quashed accordingly. Therefore, , the reasons communicated in the impugned order is directed to be expunged from the service records of the petitioner and the records maintained by the respondents.

72. In the light of the above conclusion, I do not find any merits in W.P.No.15341 of 2020.

73. In the result, the W.P.No.5836 of 2019 is partially allowed and W.P.No.15341 of 2020 is dismissed. No cost. Consequently, the connected miscellaneous petitions are closed.

SD/-  
ASSISTANT REGISTRAR

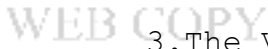
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SUB ASSISTANT REGISTRAR

JEN / MM

To

1.The Secretary to Government,  
Government of India,  
Ministry of Human Resource Development (MHRD),  
Department of Higher Education,  
Shastri Bhawan,  
New Delhi.



3.The Vice Chancellor cum Chairman of Executive Council,  
Pondicherry University,  
R.Venkatraman Nagar,  
Kalapet,  
Puducherry 605 014.

5.The President,  
Pondicherry University SC/ST Employees Welfare Associations,  
Pondicherry University,  
R.Venkatraman Nagar,  
Kalapet, Puducherry 605 014.

7.The Vice Chancellor,  
Pondicherry University,  
Kalapet, Puducherry 605 104.

8.The Assistant Registrar (Incharge),  
Recruitment Cell,  
Pondicherry University,  
R.V.Venkatraman Nagar,  
Kalapet, Puducherry 605 014.

W.P.Nos.5836 of 2019 and 15341 of 2020  
and W.M.P.Nos.6673 and 6675 of 2019  
and 19185 and 19186 of 2020

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