



W.P(MD)No.13811 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13811 of 2021

and

W.M.P.(MD)Nos.10776 and 10779 of 2021

and

W.M.P.(MD)Nos.3099 and 3108 of 2022

Seshasayee Institute of Technology,
Rep. by its Authorized Signatory,
G.M.Rajendran.

... Petitioner

Vs.

1.The Director,
Directorate of Technical Education,
Guindy, Chennai.

2.M.Sudhakar

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the 1st respondent in his proceedings Kaditha.No.15869/C2/2020 dated 27.07.2021 and quash the same as illegal.

For Petitioner : Mr.Ajmalkhan, Senior Counsel,
For M/s.Ajmal Associates.

For Respondents : Mr.N.Satheeskumar,
Addl. Government Pleader for R1.
Mr.K.Govindarajan,
For Mrs.M.Anbarasi for R2.



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ORDER

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Heard the learned senior counsel for the writ petitioner, the learned Additional Government Pleader for the first respondent and the learned counsel for the second respondent.

2.The second respondent joined the writ petitioner institution as a teaching staff. The management issued charge memo dated 19.09.2020. Enquiry was conducted. The second respondent was issued with the order of compulsory retirement dated 12.07.2021. Questioning the same, the second respondent filed appeal before the first respondent. By the impugned order dated 27.07.2021, the punishment imposed by the writ petitioner was set aside. Liberty was given to the management to proceed with the matter in accordance with law. Challenging the said order, the present writ petition has been filed.

3.The learned senior counsel points out that the impugned order was passed without notice to the writ petitioner. I went through the contents of the impugned order. The contention advanced by the learned senior counsel is perfectly justified and sustainable. When there is a dispute between the management and the employee and the disciplinary proceedings had ended in



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punishment, before interfering with the punishment, the appellate authority was duty bound to hear the management. The appellate authority could not have passed an order behind the back of the management. This is a clear violation of principles of natural justice. On this ground, the order impugned in this writ petition is set aside.

4.The parties before me agree that on 14.12.2022 at 03.00 pm, the petitioner's representative as well as the second respondent will appear in person before the first respondent. The first respondent will hear all the parties and pass final order on merits and in accordance with law on the appeal filed by the second respondent within a period of four weeks thereafter. I make it clear that I have not gone into the merits of the matter. It is open to the first respondent to pass order one way or the other. All the contentions of the parties are left open.

5.I must make one another observation. The impugned order was passed on 27.07.2021. When the writ petition filed by the management was taken up for admission on 09.08.2021, only notice was ordered and no interim order was granted. However, the management has not allowed the second respondent to report for duty. The second respondent brought the same to the notice of the



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first respondent who appears to have issued the consequential proceedings.

Questioning the same, the management had filed a writ petition and the same had also been stayed. The fact remains that from 27.07.2021 till date, the second respondent was not allowed to report for duty even though the said order was not put to challenge. The writ petitioner is an aided institution. The fight is purely between the writ petitioner and the employee. The department cannot be saddled with financial liability for this period. If the petitioner succeeds eventually, the second respondent will not get any salary for the period in question. If the second respondent succeeds, it is the management that has to bear the entire financial burden. I make it clear that for this period ie., from 27.07.2021, till date, the department shall not be saddled with any financial liability.

6.The writ petition is allowed with the aforesaid observations and clarifications. No costs. Consequently, connected miscellaneous petitions are closed.

22.11.2022

Index : Yes / No
Internet : Yes/ No
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To:-

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The Director,
Directorate of Technical Education,
Guindy, Chennai.



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G.R.SWAMINATHAN, J.

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