



W.P.(MD)No.21590 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.11.2022**

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.21590 of 2015

and

M.P.(MD)No.1 of 2015

Lakshmanan Noarayanan,
Professor/Department of Civil Engineering,
Kamaraj College of Engineering & Technology,
Virudhunagar – 626 001.

... Petitioner

Vs.

1. Anna University,
represented by its Director,
Centre for Affiliation of Institution,
Anna University,
Chennai.
2. Kamaraj College of Engineering & Technology,
represented by its Chairman,
S.P.G.C. Nagar,
Virudhunagar – 626 001.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the record relating to the impugned order of termination, dated 15.09.2015 in Letter Kamaraj/order/2015-16 and consequential order of relieving dated 15.09.2015 passed by the second respondent and quash the same.

For Petitioner : Mr.T.Antony Arulraj

For R1 : Mr.E.V.N.Siva

For R2 : Mr.T.Pon Ram Kumar

ORDER

This writ petition is filed challenging the termination order, dated 15.09.2015.

2. The petitioner has completed B.E., in the Department of Civil Engineer and joined the second respondent Institution on 27.07.2013. On 22.07.2015, a notice was issued calling for explanation with regard to students pass percentage in the examination held during



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April-May 2015 in the subject of Computer Aided Analysis and Design.

The petitioner submitted a detailed explanation, dated 23.07.2015 and had explained the reasons. Not satisfied with the explanation, the Management took a decision that 40% of the petitioner's salary will be withheld as punishment, which was opposed by the petitioner. Based on the same, the Management had called for an explanation.

3. The contention of the petitioner he has preferred a complaint with regard to the decision of the Management to Anna University and the Petitioner has sent a letter to University seeking explanation within 24 hours. Hence the college was forced to submit a reply dated 09.09.2015 to the Director, Center for Affiliation of Institutions. In the said reply, it has been specifically mentioned about the mail sent to the Chief Minister as well as the letter sent by the Anna University. Subsequently, the petitioner was terminated from service by narrating the reasons for termination. Aggrieved over the same, the present writ petition has been filed.



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4. The second respondent has filed a counter affidavit stating that the petitioner has suppressed the fact by stating that he was a regular employee but he was under probation for two years from the date of joining i.e., 01.08.2013. Further in his appointment order, it is stated that the said appointment was temporary and his service would be terminated at any point of time within three months with a notice on either side. Since the petitioner has only 44% pass performance percentage in the subjects handled by the petitioner, the respondent issued a letter, dated 22.07.2015 and sought explanation from the petitioner. Since the explanation was not satisfactory, initially stoppage of 40% of salary of the petitioner was withheld by the second respondent. Since the petitioner has not completed probation successfully and the petitioner was having low percentage of performance as Professor, in the interest of students and Institution, the petitioner's service was terminated. Subsequently, the respondent has paid 40% of withheld salary to the petitioner. The second respondent is Unaided College, hence this writ petition is not maintainable.



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5. Heard Mr.T.Antony Arul Raj, learned Counsel appearing for the petitioner, Mr.E.V.N.Siva, learned Counsel appearing for the first respondent, Mr.T.Pon Ramkumar, learned Counsel appearing for the second respondent and perused the records.

6. The preliminary issue that was raised by the learned Counsel is that the petition is not maintainable, since the second respondent College is Unaided College. However, the learned Counsel appearing for the petitioner submitted that the second respondent comes under the purview of first respondent, Anna University. The Anna University has issued Statutes for Regulation. Under Regulation 5.10 “Staff”, it has directed the colleges to issue rules for service conditions for staff, i.e. Teaching and Non-teaching staffs. Based on this, the respondent has formulated the service regulation that is applicable to the second respondent college.

7. The Learned Counsel appearing for the second respondent quoted various provisions under Regulations. The Regulations states that



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wherever the candidate is under probation, the College has every right to terminate the person. In the present case, on perusing the impugned order, it is seen various reasons have been cited in the impugned order for termination. Therefore, this Court is of the considered opinion that the impugned order cannot be construed “termination simpliciter” during probation.

8. Moreover, the Rules and Regulations of the College is based on the Anna University Statutes and Regulations for Affiliation 2004. The said Statutes is a statutory regulation. Therefore, any regulation formulated under the said regulation will also partake the colour of statutory provisions. Hence, this Court is entertaining this writ petition. Moreover, as rightly pointed out by the petitioner, the teaching profession will come under public duty. Therefore, this Court is entertaining the writ petition.

9. The next question that was raised by the learned Counsels is that the College has every right to terminate the person based on the



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regulation that has been formulated. This Court is of the considered opinion that the College has every right, but the impugned order is uttering certain stigmatic comments which is affecting the petitioner to seek any other appointment apart from the second respondent College. Therefore, this Court is of the considered opinion that the termination order if passed with stigmatic words or comments it is bad in law.

10. The Learned Counsel for the petitioner submitted that the petitioner is out of service all these years and hence prayed to compensate the loss.

11. Therefore, this Court is inclined to set aside the order and pass the following orders:

- (i) The impugned order of stigmatic termination is set aside.
- (ii) The second respondent is directed to pass a termination order without any stigmatic comments or words
- (iii) The second respondent shall grant a compensation of Rs.3,00,000/- (Rupees Three Lakh only) to the petitioner.



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8. With the above said direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
jbr

To

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represented by its Director,
Centre for Affiliation of Institution,
Anna University,
Chennai.
2. Kamaraj College of Engineering & Technology,
represented by its Chairman,
S.P.G.C. Nagar,
Virudhunagar – 626 001.



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S.SRIMATHY, J

jbr

Order made in
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