

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.20923 of 2021

and

W.M.P.(MD)Nos.17527, 17528 & 17529 of 2021

T.Sivaraman

... Petitioner

Vs.

1.The Principal Secretary
Higher Education Department,
Government of Tamil Nadu
Secretariat, Chennai 600 009.

2.The Director of Collegiate Education,
EVK Sampath Buildings,
College Road, Chennai 600 006.

3.The Regional Joint Director,
Government Multi Department Office Complex,
Kajamalai, Trichy 620 020.

4.The Registrar,
Bharathidasan University,
Tiruchirappalli 620 024.

5.The Principal
Government Arts & Science College
Aranthangi,
Pudukkottai 614 618.

6.R.Kannan
The Principal
Government Arts & Science College,
Aranthangi,
Pudukkottai 614 618.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to call for the records relating to the impugned order of the 5th respondent herein RC No.07/A/2019 dated 14/09/2021 , quash the same and consequently directing the respondent herein not to disturbed the petitioners service as Guest Lecturer and Head in-charge in Physics and further direct the respondents herein to release the salary of the petitioner wrongfully withheld by 5th respondent from August 2020 with interest at the rate of 12 percentage p.a., without any further delay.

For Petitioner : Mr.V.S.Kumaraguru
For R1 to R5 : Mr.J.Ashok
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The writ petitioner completed his B.Sc (physics) in 1995 and M.Sc (physics) in 1998. He acquired M.Phil in 2008 and Ph.D in 2017. The petitioner was appointed as Guest Lecturer in physics at Bharathidasan University Constituent College, Orathanadu, Thanjavur. Subsequently, he was

posted as Guest Lecturer in Government Arts and Science College, Aranthangi, Pudukkottai. He was working on consolidated pay. The petitioner alleges that he was not allowed to report for duty. Aggrieved by the same, the petitioner submitted a representation dated 14.09.2020. Since it was not considered, he filed W.P.(MD)No.12999 of 2020. By order dated 17.02.2021, the second respondent was called upon to dispose of the petitioner's representation. The second respondent forwarded the same to the fifth respondent. The fifth respondent by the impugned order dated 14.09.2021 rejected the petitioner's representation on the ground that there are several remarks against the petitioner and that it had been proved that he was guilty of malpractice while valuing the examination papers. Challenging the same, this writ petition has been filed.

3. The learned counsel appearing for the petitioner took me through the averments set out in the affidavit filed in support of the writ petition and also the materials enclosed in the typed set of papers as well as the additional typed set of papers.

4. The fifth respondent has filed a detailed counter affidavit and the learned Additional Government Pleader appearing for the official respondents

took me through its contents. He raised several contentions. It is contended that the writ petitioner is not having eligible qualification to be a guest lecturer. It is further contended that when the writ petitioner was entrusted with valuation duty, he had improperly awarded higher marks to certain candidates. He called for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record. No doubt, the impugned order is violative of the principles of natural justice. The case of the petitioner is that even though he was appointed as guest lecturer in the fifth respondent college, he was not permitted to discharge his duties. The fifth respondent has not issued any charge memo or show cause notice. While rejecting the petitioner's representation, several stigmatic remarks have been made against the writ petitioner. If the fifth respondent wanted to deny relief to the writ petitioner on certain grounds, the petitioner must have been put on notice. No such show cause notice was issued. That apart, finding that the writ petitioner was guilty of malpractice while valuing the university examination papers, appears to be incorrect.

6.The petitioner's counsel has produced a copy of the report of the enquiry committee dated 30.03.2022. It is seen therefrom that the enquiry committee has concluded that the allegation made against the writ petitioner has not been established beyond reasonable doubt. On the other hand, responsibility has been fastened on the sixth respondent. Be that as it may, without holding an enquiry and without issuing show cause notice, the fifth respondent could not have rendered adverse findings against the writ petitioner.

7. In that view of the matter, the order impugned in the writ petition is set aside. The writ petition is allowed. The fifth respondent shall treat the petitioner as Guest Lecturer and assign duty accordingly. The question of paying backwages will not arise because as far as Guest Lecturers are concerned, payment is made only based on the teaching hours put in by them. No costs. Consequently, connected miscellaneous petitions are closed.

11.10.2022

Index : Yes / No

Internet : Yes/ No

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NOTE:Issue Order Copy on 13.10.2022

To

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Higher Education Department,
Government of Tamil Nadu
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G.R.SWAMINATHAN, J.

rmi

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