



W.P(MD)No.18878 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.18878 of 2018

and

W.M.P.(MD)No.16712 of 2018

S.Ravindar

... Petitioner

Vs.

1.The Vice Chancellor,
Sastra University,
Shanmugha Arts, Science, Technology & Research Academy,
Having Office at the Building Complex,
Sastra University,
Thirumalai Samudhiram,
Tanjavur District.

2.The Registrar,
Sastra University,
Shanmugha Arts Science, Technology & Research Academy,
Having Office at the Building Complex,
Sastra University,
Thirumalai Samudhiram,
Tanjavur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Certiorarified Mandamus, calling for the
records relating to the impugned order of the 2nd respondent dated 04.08.2018



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quash the same and consequently direct the respondents to disburse the terminal benefits as Professor with all arrears and benefits accrued to the service of petitioner till 26.07.2018 together with interest thereon at 12% till realization.

For Petitioner : Mr.V.S.Kumaraguru

For Respondents : Mr.K.K.Senthil

ORDER

Heard the learned counsel for the petitioner and the learned counsel for the respondent “deemed to be university”.

2.The writ petitioner was appointed as Associate Lecturer in the department of Civil Engineering temporarily vide order dated 03.01.1990. He was subsequently regularized as Associate Professor in the year 1992. He was promoted as Professor on fast track basis on 02.01.2006. The petitioner was reverted from the said post to that of Associate Professor vide order dated 04.08.2018 with effect from 01.04.2018. The petitioner challenges the aforesaid order of reversion dated 04.08.2018. He also wants the terminal benefits to be disbursed to him by reckoning his post as that of Professor.



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3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

4.The respondents have filed a detailed counter affidavit and the learned counsel took me through its contents. He submitted that the impugned order does not warrant any interference and pressed for dismissal of the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. At the very commencement of his submission, the learned counsel for the petitioner complained that the original certificates of the writ petitioner are still being retained by the employer. The learned counsel for the university immediately clarified that in the year 2018, a communication has been sent to the petitioner to come and collect the documents in question. I do not want to go into the said controversy. It is well settled that educational certificates of a person are not marketable commodities and that no lien can be exercised thereon under Section 171 of the Indian Contract Act. I, therefore, direct the respondents to forthwith hand over the educational certificates of the writ petitioner. The petitioner is directed to approach the second



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respondent/Registrar on 30.11.2022 at 11.00 a.m and collect his certificates.

The petitioner shall also acknowledge receipt of the same.

6.The first question that calls for consideration is whether the impugned order of reversion is liable to be interfered with. It is not in dispute that the petitioner was promoted to the post of Professor only on fast track basis. A reading of the order dated 02.01.2006 makes it clear that the petitioner had to fulfil the following conditions:-

“i) Publication of one or more technical papers having a cumulative impact factor of minimum 1 within a period of two years.

ii) A research proposal should be submitted to any outside funding agency within a period of 3 years from the date of promotion and got sanctioned.”

7.The specific stand of the employer is that the aforesaid conditions have not been complied with by the petitioner. In fact, nowhere has the petitioner claimed that he fulfilled the conditions. On the other hand, the petitioner has only been pleading that he was not in a position to comply with the said conditions and was requesting the employer to defer the proposal of reversion.

I come to this conclusion based on the petitioner's letter dated 20.12.2017



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enclosed in the petitioner's typed set of papers. When the promotion itself was conditional, the employer is entitled to revert the candidate to the original post on being satisfied that the condition was not complied with. In this case, the employer has not acted arbitrarily or in haste. The petitioner was put on notice and only thereafter, the reversion order came to be passed. I have been spared the task of conducting an enquiry as to whether the condition was complied with or not on account of the stand taken by the petitioner himself. However, the order of reversion that was passed on 04.08.2018 can take effect only from the said date and it cannot be retrospective. I sustain the impugned order of reversion with the aforesaid clarification.

8.Next comes the question regarding disbursement of the petitioner's terminal benefits. The petitioner admittedly was holding the post of Associate Professor. The petitioner can only be reverted to the post which he was originally holding. The petitioner was physically unwell from February 2018 onwards. Clause 9(i) of the regulations framed by the board of management is as follows:-

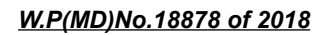
“9 (i) Leave on medical grounds on full pay shall be granted to any Employee subject to (i) availability of leave at this credit (ii) Production of a medical certificate from a Regd. Medical



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Practitioner. Such a medical certificate should accompany the requisition for leave and at the time of rejoining duty a certificate of fitness issued by a Regd. Medical Practitioner should be produced. The Management reserves the right to instruct that employee to appear before any medical practitioner for medical examination, before sanctioning the leave.”

9.In the case on hand, the petitioner has produced medical certificate from a registered medical practitioner. In his e-mail dated 26.06.2018, the petitioner had called upon the management to relieve him from service by treating the previous three months as notice period. In the alternative, he had offered to serve the institution. However, no formal order was passed by the management with regard to this part of the petitioner's letter. Instead, straightaway reversion order was passed on 04.08.2018. However, while computing the terminal benefits payable to the writ petitioner, the management has chosen to deduct three months' salary. This in my view is clearly not justified. When the petitioner has offered to serve the institution for the notice period, without specifically dealing with the said request, the management could not have unilaterally deducted three months salary which is to the tune of Rs.2,72,010/-. This deduction is unsustainable. Likewise, I do not find any justification in deducting the compensation to the tune of Rs.1,00,000/-. The management is liable to pay the aforesaid amount to the



10. The writ petition is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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