



W.P.No.438 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	26.09.2023
Pronounced on	30.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE J. SATHYA NARAYANA PRASAD

W.P.No.438 of 2020
and WMP.No.496 of 2020

D. Valandeena

... Petitioner

Vs.

1. The Secretary
CPCL Educational Trust,
Manali, Chennai 600 08.
2. The Correspondent / General Manager (Admin)
CPCL Educational Trust,
Manali, Chennai 600 008.
(Disciplinary Authority)

... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorarified Mandamus to call for the records relating to the impugned order Ref.EDU.01.001 dated 31.10.2019 of the 1st respondent confirming the order of dismissal from service passed by the 2nd respondent in his Ref.No.EDU.01.001 dated 06.09.2019 against the petitioner herein, quash the same and issue consequential directions to the respondents herein to reinstate the petitioner in service, backwages etc.,



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For Petitioner : Mr.C.T.Mohan
Senior Counsel for
Mr.R.Thamaraiselvan

For Respondents : Mr.S.Shivathanu Mohan
for M/s.S.Ramasubramaniam & Asso.,

ORDER

This Writ Petition has been filed seeking to call for the records relating to the impugned order in Ref.EDU.01.001 dated 31.10.2019 of the 1st respondent confirming the order of dismissal from service passed by the 2nd respondent in his Ref.No.EDU.01.001 dated 06.09.2019 against the petitioner herein, quash the same and issue consequential directions to the respondents herein to reinstate the petitioner in service, backwages etc.,

2. The facts of the case in a nutshell:-

The case of the petitioner is that she has done B.Tech (Electronics and Communication Engineering) and M.E. Degree Embedded System Technologies (MBCBS) in June 2013 and in response to the advertisement in “The Hindu” dated 23.03.2008 calling for applications for the post of Lecturer in CPCL Polytechnic College, Manali, Chennai 600 068, the petitioner applied



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for the post of Lecturer in Electronics and Communication Engineering to the Principal of the said Polytechnic College. The petitioner was called for an interview on 12.05.2009 vide letter dated 07.05.2008 and she was selected and appointed by the 2nd respondent as Lecturer (ECE) of the Polytechnic College on a monthly remuneration of Rs.9,000/- by letter dated 26.05.2008. Subsequently by letter dated 18.06.2009, CPCL Educational Trust confirmed the services of the petitioner with effect from 02.06.2009 in the regular pay scale of Rs.8000-275-13500 on a probation of one year up to 02.06.2010 as per regulations of the Trust.

3. The petitioner was rendering sincere and unblemished service as Lecturer in CPCL Polytechnic College and after a lapse of more than 11 ½ years of the petitioner joining service of the college she was served with a show cause notice dated 07.01.2019, alleging that it has been brought to the knowledge of the CPCL Educational Trust that the previous experience claimed to be possessed by the petitioner on the basis of the experience certificate produced by her for employment in the college dated 29.03.2008 was false and it is a fabricated one. The petitioner was called upon to give explanation within 15 days from the date of receipt of a copy of the notice dated 07.01.2019 as to



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why appropriate action cannot be taken against the petitioner for the allegation / charges levelled against her. The petitioner in her letter dated 21.01.2019 submitted a reply to the show cause notice, subsequently the 2nd respondent issued a charge memo dated 12.03.2019 and called upon the petitioner to submit her explanation. Thereafter, charges were framed against the petitioner and enquiry was conducted and the same was over on 24.04.2019 and the petitioner submitted a detailed explanation dated 16.05.2019 to the said enquiry officer and the enquiry officer submitted his report dated 30.05.2019 rendering findings that three charges had been proved. The 2nd respondent/ Disciplinary Authority accepted the findings of the enquiry officer and passed a non speaking order in Ref.No.EDU-01-001 dated 06.09.2019 imposing the penalty of “dismissal from the service of the CPCL Polytechnic College”. Thereafter, the petitioner preferred an appeal dated 14.10.2019 to the first respondent against the order of dismissal passed by the 2nd respondent. The Appellate Authority/1st respondent by its order in Ref.No.EDU-01-001 dated 31.10.2019 dismissed the appeal and confirmed the order of dismissal dated 06.09.2019 passed by the 2nd respondent/Disciplinary Authority. Aggrieved by the above orders passed by the Disciplinary Authority and Appellate Authority, the writ petitioner has come forward with the present writ petition.



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4. The learned Senior Counsel appearing for the petitioner submitted that a letter dated 26.05.2008 was sent to the petitioner informing the petitioner that the first respondent have pleased to engage the services of the petitioner as Lecturer (ECE) in the Polytechnic College of the respondent Trust initially for a period of one year subject to terms and conditions. The important conditions are clauses IV and VI and the same are extracted hereunder:-

Clause IV “you will be governed by the rules and regulations of the Educational Trust, including all safety precautions and procedures and that you will scrupulously adhere to the same with utmost diligence”.

Clause VI “your services are liable to be terminated, at any time, without any prior notice in case of misconduct/unsatisfactory performance on your part”.

5. Then a letter dated 18.06.2009 was issued by the CPCL Educational Trust in which it was mentioned that “we are glad to inform that you have satisfactorily completed the temporary period. You are confirmed in the services of CPCL Polytechnic College with effect from 02.06.2009 in the regular Pay scale of Rs.8000-275-13,500/- on a probation of one year up to 02.06.2010 as per the rules and regulations of the Educational Trust”. The experience certificate dated 04.12.2006 was issued by Sri Manakula Vinayagar Engineering College, Puducherry certifying that the petitioner was working as a



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Lecturer in Electronics & Communication Engineering Department (ECE), in their college from 22.07.2004 to 18.11.2006 and she is efficient sincere and hard working and her conduct and character are good and the certificate was signed by Dr.V.S.K.Venkatachalapathy, Principal of the College.

6. The learned Senior Counsel further submitted that on 07.01.2019 a show cause notice was issued to the petitioner stating that it has been brought to the knowledge of the CPCL Trust that the previous experience deem to be possessed by the petitioner on the basis of the experience certificate produced by her for employment in the CPCL Polytechnic College pursuant to the advertisement dated 23.03.2018 was false. Consequently, the experience certificate dated 04.12.2006 mentioning that the petitioner has worked as a Lecturer in Sri Manakula Vinayagar Engineering College, Puducherry from 22.07.2004 to 18.11.2006 and produced by you before the appointing authority at the time of your appointment on 26.05.2008 is a fabricated and false certificate and the petitioner was directed to show cause within 7 days from the date of receipt of this notice as to why appropriate action cannot be taken against her for the allegation/charges levelled against her. Then a reply was sent by the petitioner dated 21.01.2019 to the 2nd respondent and thereafter a charge



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memo dated 12.03.2019 was issued by the 2nd respondent and the said three charges are extracted hereunder:-

“That you have produced a fabricated and false certificate regarding your experience as Lecturer in Sri Manakula Vinayagar Engineering College during the period from 22.07.2004 to 18.11.2006.

That you have acted with willful malafide intention to cheat and misguide the appointing authority.

That you have continuously worked as Lecturer, CPCL Polytechnic College, Manali based on a fabricated and false certificate regarding possession of experience to the post to which you were appointed and was drawing salary and other pecuniary benefits entitled to that post from the date of her appointment (i.e., 02.06.2008) till date”.

7. Thereafter, the petitioner gave an explanation / reply to the charge memo on 23.02.2019. The enquiry notice dated 15.04.2019 was sent by the enquiry officer to the petitioner informing the petitioner that the enquiry is scheduled to be held on 24.04.2019 and the petitioner is requested to attend the same without fail. The learned Senior Counsel would further submit that the Principal of Sri Manakula Vinayagar Engineering College, Puducherry sent a reply dated 21.12.2008 to the 2nd respondent informing that the petitioner has not worked in their institution during the period from 22.07.2004 to 18.11.2006 and this reply was also sent by the same person by one Mr. V.S.K.



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Venkatachalapathy who was then Principal of the College who issued experience certificate dated 04.12.2006 to the petitioner. The only difference is in the year 2006 he was the Principal of the College and now he is the Director cum Principal of the said College.

8. The learned Senior Counsel further submitted that no proper enquiry was conducted, no witnesses were examined and the petitioner was dismissed by the 2nd respondent CPCL Educational Trust vide order dated 06.09.2019. In reply sent by the petitioner dated 21.01.2019 to the show cause notice dated 07.01.2019 and the letter dated 14.01.2019 it is stated by the petitioner that she worked at Sri Manakula Vinayagar Engineering College, Puducherry on temporary basis for the period from 22.07.2004 to 18.11.2006 and after receiving the letter, the petitioner had approached the college authorities for confirmation of the certificate already issued and she have been told that they could not trace respective record sought. Hence, requested the 2nd respondent to consider her sound academic track record and her unblemished services in CPCL Polytechnic College for 11 years. As per the AICTE Notification on revision of pay – scales and associated terms and conditions of service of teachers, librarians and physical education personnel for diploma



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level technical institutions, the qualification as per clause 5.0 is that “the prescribed minimum qualifications and experience requirements for various teaching posts in diploma level technical institutions are given (Appendix – B)”. According to which, for the post of lecturer, the qualification is 1st class Bachelor degree in appropriate branch of Engineering / Technology and in regard to the experience no requirement. The reply letter dated 21.12.2018 given by the Principal of Sri Manakula Vinayagar Engineering College, Puducherry addressed to the 2nd respondent was personally received by one Mr.Kaushik Bhar and he is also the Presenting officer in the enquiry conducted by the respondents.

9. The copy of the complaint was not filed in the enquiry and the same was conducted after a delay of 11 years and it was also not mentioned under which conduct rules and provisions the respondents have initiated action against the petitioner. In the enquiry, no witnesses were examined, no details of documents were furnished to the petitioner and there is no imputation of charges. The letter issued by Sri Manakula Vinayagar Engineering College, Puducherry dated 04.12.2006 and 21.12.2018 are contrary to each other and both the letters were signed by one and the same person



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Mr.V.S.K.Venkatachalapathy, Principal of the College. In the show cause notice itself the respondents have come to the conclusion that the charges are framed which is evident from the wordings of the said show cause notice and the relevant portions are extracted as hereunder:-

“It has been substantiated with recorded evidence that Ms.D.Valandeena had not at all worked in Sri Manakula Vinayagar Engineering College, Pondicherry and hence the certificate produced by her stating that she had worked during the period from 22.07.2004 to 18.11.2006 in that Institution is false.

The above allegations levelled against Ms.D.Valandeena, Lecturer, CPCL Polytechnic College, Manali amounts to cheating and deceiving the appointing authority and warrants severe disciplinary action against her”.

10. Paragraph Nos. 3.4, 5.3 and 5.5 of the enquiry report are extracted as hereunder:-

“ 3.4 it is pertinent to mention here that the Charge Memo does not indicate any specific provision(s) which were purportedly violated by the Charged Officer (CO)”. In the evidence on record, according to para 4.0 of the enquiry report, the letter dated 21.12.2018 from the Director – cum – Principal, Sri Manakula Vinayagar Engineering College, Pondicherry – 605 107 was introduced by the Presenting Officer during the enquiry in support of the charges levelled against the charged officer (petitioner) and no



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copy of the complaint was produced at the time of enquiry and the complainant name also was not disclosed”.

5.3 Based on a specific complaint received by the D.A. a letter was sent to the Principal, Sri Manakula Vinayagar Engineering College, Pondicherry on 19.12.2018 requesting them to confirm the experience certificate submitted by the C.O. and vide letter dated 21.12.2018 the Director-cum-Principal, Sri Manakula Vinayagar Engineering College, Pondicherry has stated that the CO had not worked in their institution during the said period.

5.5 No Documentary evidence has been produced by the CO to substantiate her claim that she has worked in the College”.

11. In paragraph No. 8.8 of the enquiry report, it is stated that the Charged Officer furnished a forged certificate displays her intention. While the Presenting Officer has brought out evidence in support of the charges that the experience certificate produced by the Charged Officer at the time of applying for the post of Lecturer in CPCL Engineering College was false and fabricated, the Charged Officer would not rebut the same. In regard to this, the Principal of Sri Manakula Vinayagar Engineering College, Puducherry was not examined and the Presenting Officer has also not proved the case. The appeal remedy was also exhausted by the petitioner and the present charges levelled against the



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petitioner after a lapse of 11 years.

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12. The learned Senior Counsel further submitted that the resume of the petitioner is of high standard marks and there is no need or necessity to produce a false certificate in order to get appointment as a Lecturer in CPCL Trust College. A copy of the complaint was not submitted at the time of enquiry by the Presenting Officer. No action was taken against the petitioner on receipt of the 2nd certificate dated 21.12.2018. The findings of the enquiry officer is as follows:-

<i>Charges</i>	<i>Findings</i>
(1) That she had produced a fabricated and false certificate regarding her experience as Lecturer in Sri Manakula Vinayagar College during the period from 22.07.2004 to 18.11.2006.	PROVED
(2) That she had acted with willful malafide intention to cheat and misguide the appointing authority.	PROVED
(3) That she had continuously worked as Lecturer, CPCL Polytechnic College, Manali based on fabricated and false certificate regarding possession of experience to the post to which she was appointed and was drawing salary and other pecuniary benefits entitled to that post from the date of her appointment (ie., 02.06.2008) till date.	PROVED

The rules and regulations have come into effect only in the year 2011 and on the date of appointment of the petitioner i.e., on 26.05.2008 there was



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no rules and regulations as mentioned in Clause IV of the same.
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13. The main contention of the learned Senior Counsel is that the impugned order passed by the respondents have to be quashed on the following grounds:-

1. Copy of the complaint was not furnished to the petitioner/charged officer.
2. Name of the complainant was not disclosed
3. Charge levelled against the petitioner after a delay of 11 years
4. Enquiry was not conducted in a fair and proper manner
5. No proper opportunity was given to the petitioner/charged officer to put forth her case which is in violation of principles of natural justice.
6. The Principal of Sri Manakulam Vinayagar Engineering College (Pondicherry) who issued the experience certificate dated 04.12.2006 and 21.12.2018 was not examined.
7. There is no conduct rules or provisions under which the enquiry was initiated against the petitioner.

14. In support of his contentions, he has placed reliance on certain judgments of this Court as well as the Hon'ble Supreme Court, the relevant



portions of which are usefully extracted below:-

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1. M.V.Bijlani Vs Union of India and others [reported in (2006) 5 SCC 88]

A. Thus, disciplinary authority proceeded on a wrong premise – Evidences recorded and inferences drawn were not commensurate with the charges – Charges were vague – Testimony of witnesses deposing totally against the department was disbelieved without assigning any reasons therefore – Hence, appellant's removal from service on the basis of the aforesaid enquiry report, not sustainable – Appellant directed to be reinstated in service, if not reached the age of superannuation, with 50% back wages.

2. Siemens Ltd., Vs State of Maharashtra and others [reported in (2006) 12 SCC 33]

However, when a notice is issued with premeditation, a writ petition would be maintainable – In the instant case, the statutory authority already forming an opinion regarding liability of the appellant. If in passing the order the respondent already determined the liability of the appellant and only the question of quantification thereof remaining, the same will not remain in the realm of show cause notice. Hence, held the writ petition was maintainable. Therefore, impugned judgment set aside and the matter remitted to High Court for consideration afresh on merits. Municipal Taxes – Imposition of – Demand / Show Cause notice – Maintainability of writ petition questioning the notice.

3. Government of Andhra Pradesh and others Vs A. Venkata Raidu



reported in (2007) 1 SCC 338

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A. Service Law – Departmental enquiry – Natural justice – Documents to be supplied – If any material is sought to be used in an enquiry, copy thereof should be supplied to the party against whom such enquiry is being held.

B. Further held, the charge was not specific and hence no finding of guilt can be fixed on that basis – Moreover, High Court found that respondent only renewed the deposit already made by his predecessors, hence respondent cannot be found guilty of the offence charged.

4. R.T.Murugesan Vs The Secretary to Government, Agriculture Production Department, Fort St.George, Chennai and another (W.P. No.3926 of 2011 decided on 24.01.2013)

“8. The second serious infirmity in the disciplinary proceedings conducted in this matter is to the effect that though the charge memo contains list of 11 witnesses, the fact remains that no even a single witness was examined during the course of the proceedings. It is also seen that by merely placing reliance on 3 documents, which is listed in Annexure III, the petitioner was found guilty of the charges levelled against him without examining the authors of the said documents. It is well settled that any document could be relied on only on the basis of the examination of its author.

8.a. At this juncture, it is relevant to refer to an unreported order dated 26.09.2006 in W.P.Nos.13887 of 2006 etc., a learned Single Judge of this Court has held as hereunder:



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“13. As per the judgment reported in 1989 (4) SLR (Rajkishore Pandey Vs. Rewa Sidhi Gramin Bank and another) at paragraph 11 and so also the judgment reported in AIR 1959 SC 1111 (Phulbari Tea Estate Vs Its Workmen), when the author of the report has not been examined, any order passed basing on the report, is unsustainable.

8.b. In Roop Singh Negi Vs. Punjab National Bank reported in 2009 (3) SCC 934 (SC) the Hon'ble Apex Court held as hereunder:-

“10. Indisputably, a Departmental proceeding is a quasi-judicial proceeding. The enquiry officer performs a quasi – judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the Investigating Officer against all the Accused by itself could not be treated to be evidence in the Disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof.

8.C. The Hon'ble Apex Court further held in the said decision as hereunder:-

“A decision must be arrived at on some evidence, which is legally admissible. The provisions of the Evidence Act may not be applicable in a Departmental proceeding but the Principles of Natural Justice are. As the report of the Enquiry Officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The



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inferences drawn by the Enquiry Officer apparently were not supported by any evidence. Suspicion, as is well known, however high may be can under no circumstances be held to be a substitute for legal proof”.

8.e. This Court in M.Marimuthu Vs. General Manager (D&PB),

SBI reported in 2010 (5) MLJ 925 held as follows:-

“In the absence of examination of the authors of accusations against the delinquent, the statements exhibited during the course of enquiry before the enquiry officer is of no evidentiary value.

5. Union of India and others Vs P.Gunasekaran [reported in (2015) 2 SCC 610]

It can only consider whether enquiry held by competent authority was in accordance with procedure established by law and principles of natural justice, whether irrelevant or extraneous considerations and / or exclusion of admissible or material evidence or admission of inadmissible evidence have influenced decisions rendering it vulnerable. Further held, it can interfere where finding is wholly arbitrary and capricious based on no evidence which no reasonable man could ever arrive at. In instant case, Charge I which related to unauthorised absence of respondent from office after signing in attendance register was found to have been proved disciplinary authority which was endorsed by Tribunal.

6. S. Munusamy Vs The Registrar, O/o.The Registrar of Co-operative Societies, V.N.Maligai Kilpauk, Chennai in W.P.No.3057 of 2023



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8. In State of Madhya Pradesh Vs Bani Singh and another reported in 1990 (Supp) SCC 738, the Supreme Court had come down heavily against the laches on the part of the employer in conducting departmental enquiry and after finding out that there was no satisfactory explanation for the inordinate delay, held that it would be unfair to order departmental enquiry to proceed further.

9. In State of A.P., Vs N.Radhakrishnan reported in 1998 (4) SCC 154, the Supreme Court at Paragraph 19, held as follows:-

“Normally, disciplinary proceedings should be allowed to take its course as per relevant rules but then delay defeats justice. Delay cause prejudice to the charged officer unless it can be shown that he is to blame for the delay or when there is proper explanation for the delay in conducting disciplinary proceedings. Ultimately, the Court is to balance these two diverse considerations.

7. United Bank of India Vs Biswanath Bhattacharjee [reported in 2022 SCC Online SC 108]

16. In one of the earliest decisions of Union of India Vs H.C. Goel relating to departmental proceedings, this Court observed that where a public servant is punished for misconduct after a departmental enquiry is conducted, a clear case where interference under Article 226 of the Constitution is warranted is when there is no evidence to establish the official's guilt.

23. That is a matter which is within the competence of the authority which deals with the question; but the High Court can and must enquire whether there is any evidence at all in support of the impugned conclusion. In other words, if the whole of the evidence led in the enquiry is accepted as true, does the conclusion follow that the weighing the evidence. It will take the evidence as it stands and only examine this test, were are inclined to hold that the respondent's grievance is well founded, because, in our opinion, the finding which is implicit in the applicant's order dismissing the respondent that charge 3 is proved against him is based on no evidence”.

17. The departmental proceeding is a quai-judicial one. Although the provisions of the Evidence Act are not applicable in the said proceeding, principles of natural justice are required to be complied with. The Courts exercising power of judicial review are entitled to



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consider as to whether while inferring commission of misconduct on the part of a delinquent officer relevant piece of evidence has been taken into consideration and irrelevant facts have been excluded therefrom. Inference on facts must be based on evidence which meet the requirements of legal principles. The Tribunal was thus entitled to arrive at its own conclusion on the premise that the evidence adduced by the Department, even if it is taken on its face value to be correct in its entirety, meet the requirements of burden of proof, namely, preponderance of probability. If on such evidence, the test of the doctrine of proportionality has not been satisfied, the Tribunal was within its domain to interfere.”

15. The learned Senior Counsel further submitted that the following judgments relied upon by the respondents are not applicable to the instant case.

1. District Collector & Chairman, Vizianagaram Social Welfare Residential School Society, Vixianagaram and others Vs M.Tripura Sundari Devi (1990) 3 SCC 655

2. Union of India (UOI) and others Vs. M.Bhaskaran and others (1995) Supp (4) SCC 100

3. Avtar Singh Vs Union of India and others (2016) 8 SCC 471

4. A. Sivakumar Vs The Chairman cum Managing Director, Corporate Office, Bharat Sanchar Nigam Limited and others (***W.P. No.2478 of 2021 decided on 17.12.2021***)

5. The Intergral Coach Factory and others Vs V. Prabhakaran and others (***W.P.No.7334 of 2001 decided on 09.08.2004***)

6. K.Swarna Kumari, Subordinate Judge (Compulsorily retired) Vs



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Government of Andhra Pradesh and others (*W.P.No.24811 of 1999 decided on 06.02.2006*)

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7. State of Uttar Pradesh Vs Sudhir Kumar Singh and others (2020) 8

MLJ 359

16. According to the learned Senior Counsel appearing for the petitioner:

- a) the first and second judgments referred to above are not applicable to this case since there are no rules and regulations in force as on date of appointment to initiate action against the Charged Officer/Petitioner.
- b) the third judgment is not applicable since the criminal case is involved in that case.
- c) the fourth judgment is not applicable since it relates to wrong Date of Birth and there is no verification committee in the present case.
- d) the fifth judgment relates to all false certificate regarding caste and qualification and not applicable to the present case.
- e) the sixth and seventh judgments are not applicable for the reason no prejudice was stated in the counter affidavit.



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17. Per contra, the learned counsel appearing for the respondents submitted that the qualification prescribed in Clause 5.0 in the AICTE notification is the prescribed minimum qualifications and experience requirements for various teaching posts in Diploma level technical institution. The AICTE regulations will apply only if no experience is there and in the advertisement it has been clearly mentioned that for the post of Lecturer is first Class B.E./B.Tech Degree in Chemical, Petrochemical, ECE and Mechanical Engineering with minimum two years of teaching experience in Polytechnic/Engineering College and referring to the notification of the AICTE is too late in this case as the appointment relates to the year 2008. The letter dated 19.12.2018 was addressed to the Principal of the Sri Manakula Vinayagar Engineering College, Puducherry along with the copy of the certificate to confirm whether the experience certificate submitted by the petitioner was issued by the college and in that letter it is also requested to kindly confirm the details given in the certificate and handed over the letter personally to Mr.Kaushik Bhar, Senior Manager, CPCL. The petitioner has not disputed the letter given by the Principal of the Sri Manakula Vinayagar Engineering College, Puducherry dated 21.12.2018 and the signature of the Principal is mismatching.



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18. The learned counsel further drew the attention of this Court to Clause 7.7 of the enquiry report and the same is extracted as hereunder:-

“When I approached the said College again last week, the Principal expressed his inability to issue a Certificate since he had already sent a reply to a Central Government organisation regarding my experience certificate, he was not in a position to take it back”.

and this statement by the petitioner / Charged Officer shows that the certificate is not false and the onerous is on the petitioner to prove that it is false certificate. In regard to the assessment of evidence during the enquiry, it is stated at paragraph No.7.1 of the enquiry report that “The Presenting Officer has pointed out that no documentary evidence like bank statement, attendance register, payment voucher, pay slip, appointment order, ID card etc., has been produced by the Charge Officer to substantiate her claim that she has worked in the said college as claimed in the selection process at CPCL Polytechnic College”.

19. The learned counsel appearing for the respondents further submitted that the contention of the petitioner/charged officer are that

1. The Presenting Officer by name Mr.Kaushik Bhar, Senior Manager,



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CPCL whose name was mentioned in the letter dated 19.12.2018 addressed to the Principal, Sri Manakula Vinayagar Engineering College, Puducherry requesting to confirm the details in the certificate and to handover the same to him and he is also the Presenting Officer in the enquiry.

2. In regard to the issue that in the show cause notice itself the respondents have come to the conclusion that the documents are fabricated one
3. The author of the letter was not examined.

None of these issue were raised by the petitioner in the appeals and they have been raised for the first time before this Court.

20. The learned counsel for the respondents further submitted that at paragraph No.8.2 of the enquiry report it is stated that the Charged Officer through her letter dated 11.01.2019 sought 20 days time to trace the records due to Pongal Holidays by the said college Management and to prove her bonafides. This was acceded to by the General Manager vide letter dated 14.01.2019 and the charged officer submitted a reply on 21.01.2019 that the college could not trace the record. Based on this, the charge memo dated 12.04.2019 was issued and the present Disciplinary Enquiry proceedings was



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conducted by the 2nd respondent.
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21. The allegation by the petitioner in her reply to the charge memo dated 20.03.2019 was that she has been repeatedly discriminated and terminated as she is a scheduled caste women and in continuance of the same, the Management's action to scrutinise only her experience certificate is prejudiced and unwarranted and this allegation of caste discrimination has been taken subsequently by the petitioner / charged officer. He would further submit that the rules and regulations came only in the year 2011 i.e., after three years from the date of appointment of the petitioner on 26.05.2008 in CPCL Polytechnic College. In the resume submitted by the petitioner at the time of interview it was mentioned Rs.7,400/- salary but no documents as a proof was submitted by the petitioner. This itself shows that the petitioner has not worked as a Lecturer in Sri Manakula Vinayagar Engineering College, Puducherry.

22. He further submitted that the reply dated 21.12.2018 by the Principal, Sri Manakula Vinayagar Engineering College, Puducherry to the 2nd respondent is genuine and the experience certificate dated 04.12.2006 submitted by the charged officer / petitioner is fake. According to him, the



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judgments relied upon by the petitioner are not applicable to the case on hand for the reasons stated below:-

1. the 1st judgment is regarding contents of the letter and in this case there is no dispute regarding the contents of the letter and the issuance of the letter itself.
2. The 2nd judgment relates to violation of rules and in this case there is no rules as on the date of the appointment of the petitioner on 26.05.2008.
3. 3rd judgment relates to misappropriation
4. 4th judgment relates to show cause notice
5. 5th judgment relates to supply of copy of the documents used in the enquiry and in this case no documents used.
6. 6th judgment - author was not examined.

Hence the contention of the learned counsel appearing for the respondents are as follows:-

1. AICTE notification in clause 5.0 relates to minimum qualification / minimum requirement.
2. in clause 7.7 of the enquiry report the charged officer/petitioner admits that the letter has been issued by the Principal.
3. the experience certificate submitted by the petitioner dated 04.12.2006 is duplicate / fabricated / false.
4. no dispute regarding the letter dated 21.12.2018 issued by the Sri Manakula Vinayagar Engineering College, Puducherry to the 2nd respondent.
5. no witness / no documents on the side of the petitioner
6. the petitioner refused to examine herself.



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23. Heard both sides and perused the materials available on record.

24. In the case on hand, the petitioner was appointed as a Lecturer in CPCL Polytechnic College on 26.05.2008 and the order of confirmation was issued by the 2nd respondent on 18.06.2009. The petitioner submitted the experience certificate dated 04.12.2006 issued by Sri Manakula Vinayagar Engineering College, Puducherry in which it is stated that the petitioner worked as a Lecturer in Electronics and Communication Engineering Department (ECE) from 22.07.2004 to 18.11.2006 and she is efficient, sincere and hard working and her conduct and character are good. She was working in the CPCL Polytechnic College for the last 11 years with unblemished record and after a lapse of 11 ½ years she was served with a show cause notice dated 07.01.2019 alleging that it was brought to the knowledge of the CPCL Educational Trust that the previous experience claim to be possessed by the petitioner on the basis of the experience certificate produced by her for employment in the college dated 29.03.2008 was false and it is a fabricated one. The letter dated 19.12.2018 was sent by the 2nd respondent to the Principal, Sri Manakula Vinayagar Engineering College, Pondicherry to confirm whether the details given in the certificate are true and also to hand



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over the same in person to Mr. Kaushik Bhar, Senior Manager, CPCL. Then a reply was sent on 21.12.2018 by the Principal, Sri Manakula Vinayagar Engineering College, Puducherry to the 2nd respondent stating that the petitioner has not worked in their institution during the period from 22.07.2004 to 18.11.2006. Thereafter a show cause notice dated 07.01.2019 was issued by the 2nd respondent to the petitioner and the petitioner also gave reply dated 21.01.2019 to the show cause notice. Then on 12.03.2019 charge memo was issued by the 2nd respondent and the reply to the charge memo was also sent by the petitioner on 20.03.2019. The enquiry notice dated 15.02.2019 was sent by the enquiry officer and the final explanation/submission was submitted by the petitioner dated 16.05.2019 to the charge memo dated 12.03.2019. The enquiry officer sent his report dated 30.05.2019 and the reply was sent by the petitioner to the 2nd respondent on 14.06.2019. The petitioner was dismissed from service by the 2nd respondent by order dated 06.09.2019 and an appeal was preferred by the petitioner to the 1st respondent on 14.10.2019 and the order passed by the 2nd respondent was confirmed by the 1st respondent by order dated 31.10.2019 which is under challenge in the present writ petition. **The charge memo was issued to the petitioner based on the complaint that the petitioner has submitted a false experience certificate and during the enquiry copy of the**



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complaint was not furnished to the charged officer/petitioner and the complainant's name was also not disclosed.

25. It is pertinent to mention that in the enquiry proceedings, no documents were produced, no witnesses were examined, no details of the documents were furnished and there is no imputation of charges. In the show cause notice dated 07.01.2019, it is stated that the respondents have come to the conclusion that the experience certificate produced by the petitioner dated 04.12.2006 stating that she worked as Lecturer in Sri Manakulam Vinayagar Engineering College, Puducherry is false and fabricated one. It is pertinent to mention that even before conducting the enquiry the respondents have come to the conclusion that the allegation levelled against the petitioner amounts to cheating and deceiving the appointing authority and warrants severe disciplinary action against her. Hence it is crystal clear and evident that before initiation of the enquiry itself the respondent has come to the conclusion that the allegation is true. It is a well settled law that in the disciplinary proceedings opportunity should be given to the delinquent/charged officer to put forth her case. In the letter



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dated 19.12.2018 sent by the 2nd respondent to the Principal, Sri Manakula Vinayagar Engineering College, Puducherry it is stated that the letter confirming the details given in the certificate can be handed over to Mr.Kaushik Bhar, Senior Manager, CPCL and it is really unfortunate that the same person is the Presenting Officer in the enquiry proceedings and it is also to be noted that the officer has been sent personally to the college to get the certificate which itself shows that the respondents have predetermined and decided to dismiss the petitioner from the service of CPCL Polytechnic College. There is no complaint whatsoever against the petitioner in her 11 1/2 years of service and the charges framed against the petitioner are based on a complaint letter dated 14.12.2018 given by one Jagadeeswaran, Lecturer (ECE), CPCL Polytechnic College and this document was not furnished to the petitioner during the time of enquiry nor it was submitted to the Presenting Officer. The above said documents were submitted before this Court on 22.09.2023. When this Court raised a query why the copy of the complaint based on which the disciplinary action was initiated against the petitioner, was not communicated/furnished to the petitioner, the learned counsel for the respondent has submitted a copy of the complaint given by the



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S.Jegatheeswaran, the Lecturer (ECE), CPCL Polytechnic College, dated 14.12.2018 before this Court on 22.09.2023 and the copy of the complaint is extracted hereunder:-

14/12/2018

From

S.Jegatheeswaran
Lecturer (ECE)
CPCL polytechnic college

To
CGM(HR)
CPCL

Respected Sir/Madam,

Sub: Request for verifying the genuinity of experience certificate - reg

I have been working as lecturer since 2008 in the department of ECE. I attended the interview for the post of lecturer along with other candidate in the CPCL Educational Trust, and also submitted my original experience certificate as per advertisement.

As a Lecturer, I have been handling 3 subjects in every semester and acted as a class in charge in rotation. In addition to this, I have been acted as NSS Program officer from 2009 to 2017. (We receive best NSS unit award in this period) and acting as Exam cell Co-ordinator from 2015 to till now.

As per circular issued by DOTE, the experience certificates of our polytechnic college staff members were received in last semester.

From some reliable sources, I got the information that experience certificate produced by Mrs.D. Valandeena was fake and she did not have the valid experience in the mentioned period (22.07.2004 to 19.11.2006) at Sri Manakula Vinayagar Engineering College.

If the experience certificate is false, the experience details of Mrs. D. Valandeena, which was sent to the Government of Tamilnadu (DOTE) from our polytechnic college was questionable.

So, I kindly request you to verify the genuinness of her experience certificate by officially communicating with the educational institution.

Thanking You,

Yours Faithfully,

S JEGATHEESWARAN

Note:

Prior to this letter, I informed this to our college officials on 12/06/2018.

I conveyed the information through a letter to our college vice principal, who is the in charge of staff members, but he did not accept my letter as he might face official consequences. for this certificate.





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26. From the contents of the above complaint, it is crystal clear and evident that the complainant has some ulterior motive, mala fide intention in preferring this complaint against the petitioner to the Chief General Manager, HR, CPCL. This is the vital document which has to be produced at the time of enquiry and the respondent, having failed to do so, and on this ground itself, it can be concluded that the enquiry conducted by the respondents is not in a fair and proper manner and in accordance with law.

27. The learned counsel appearing for the respondents submitted a copy of the letter written on 09.09.2019 by the petitioner before this Court on 29.09.2023 which cannot be taken on record by this Court, since the matter was already reserved for orders on 26.09.2023 and for the other reason that the same was also not produced at the time of the enquiry proceedings.

28. The impugned order has to be quashed for the following reasons/findings of this Court.

- 1. The copy of the complaint was not furnished to the petitioner/the charged officer.**
- 2. The name of the complainant was not disclosed**



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3. The charge levelled against the petitioner after an inordinate delay of 11 ½ years.

4. The enquiry was not conducted in a fair and proper manner

5. No proper opportunity was given to the petitioner/charged officer to put forth her case which is in violation of principles of natural justice.

6. The Principal of Sri Manakula Vinayagar Engineering College (Pondicherry) who issued the experience certificate dated 04.12.2006 and 21.12.2018 was not examined.

7. There is no conduct rules or provisions on the date of appointment of the petitioner under which the enquiry was initiated against the petitioner and the conduct rules were framed and came into effect only in the year 2011 i.e., after 3 years of the appointment of the petitioner.

8. There is no complaint whatsoever against the petitioner in regard to her performance/behaviour in the last 11 ½ years of the service of the petitioner.

9. The petitioner was rendering sincere and unblemished service for the last 11 ½ years .

10. The certificates submitted by the petitioner were not verified by the 2nd



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respondent at the time of her appointment in the year 2008.

11. The Presenting Officer Mr.Kaushik Bhat, Senior Manager, CPCL to whom the reply letter dated 19.12.2018 was handed over by Sri Manakula Vinayagar Engineering College, Puducherry is also the Presenting Officer in the Enquiry Proceedings initiated by the 2nd respondent.

12. The contents of the complaint dated 14.12.2018 given by Mr.Jegadeeswaran colleague of the petitioner itself shows that there is some ulterior motive and malafide intention in preferring the complaint.

13. The complainant has stated in the complaint that from a reliable source he got the information that the petitioner do not have a valid experience certificate and he has not mentioned the source of information and this itself shows that it is with a motive to send the petitioner out of the college for the best reason known to the complainant who is none other than the colleague of the petitioner.

14. The respondents failed to scrutinise/verify the certificates submitted by the petitioner at the time of appointment in the year 2008 and it is the duty cast upon them to verify before issuing the appointment order.

15. The complaint is of a frivolous nature and it contains some other facts which are not related to the experience certificate submitted by the petitioner.



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16. The evidence of the author of the experience certificate / letter is vital and crucial and he was not examined during the enquiry proceedings by the 2nd respondent.

29. In view of the above discussion, findings, reasons, this Court is of the considered view that the impugned order in Ref.No.EDU-01-001 dated 31.10.2019 passed by the 1st respondent confirming the order of dismissal from service passed by the 2nd respondent in his Ref.No.EDU.01.001 dated 06.09.2019 against the petitioner are liable to be quashed and the same are hereby quashed.

30. In the result, this writ petition is allowed with a direction to the respondents to reinstate the petitioner in service with all consequential benefits, continuity of service and backwages etc., within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is also closed.

30.11.2023

Internet : Yes
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J. SATHYA NARAYANA PRASAD, J.

dpq

To

1. The Secretary
CPCL Educational Trust,
Manali, Chennai 600 08.
2. The Correspondent / General Manager (Admin)
CPCL Educational Trust,
Manali, Chennai 600 008.
(Disciplinary Authority)

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30.11.2023