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W.A.No.2145 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2023

CORAM :

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

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1.PSG College of Technology
Rep.by its Principal
Peelamedu, Coimbatore-4.

2.The Governing Council
PSG College of Technology
Rep.by its Chairman
Peelamedu, Coimbatore-4.

... Appellants

-Vs-

1.Dr.V.Govindaraju
11-A, Rajalakshmi Nagar
Lakshmipuram, Peelamedu
Coimbatore-4.

2.Director of Technical Education
Guindy, Chennai 600 025.

... Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order in W.P.No.2858 of 2001 dated 22.03.2013.

For Appellants : Mr.Abhishek Jenasen

For Respondents : Mr.V.Govardhanan for M/s.Row & Reddy
- for R1
Mr.K.V.Sajeev Kumar
Special Government Pleader - for R2



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J U D G M E N T

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

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This intra court appeal has been directed against the order passed by the writ Court dated 22.03.2013 in W.P.No.2858 of 2001. The short facts leading to the filing of this appeal are as follows.

2. The first respondent herein / writ petitioner was appointed in the appellant college on 17.02.1982 as Lecturer on temporary basis in the Department of Management Sciences. Later, during June 1982 he was selected through the Selection Committee and therefore he was appointed in the said post on regular basis on 17.06.1982. The said regular appointment was approved by the State Government through the third respondent. Thereafter, on 07.07.1986 the first respondent was promoted as Assistant Professor through the Selection Committee and the said appointment also was with the approval of the third respondent.

3. Thereafter, the first respondent was working as Assistant Professor in the appellant college. Mainly he was pressed into service in the Management Department for MBA degree program. Upto the semester ended on 19.04.1995 the first respondent was allotted work only in the MBA program along with other teaching staff in the Department of Management Sciences. However, on 22.03.1997 the Head of the Department, Department of Management Sciences assigned the work to handle B.E classes for even semesters of 1998 to the first respondent.



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4. On 26.05.1997, the first respondent had informed the Management of the college that by entrusting the subjects to be taken for B.E. students, the work load has been increased manifold to the first respondent and in fact the said subject has to be handled by the Humanities Department of the college concerned. Therefore, such a work load cannot be fastened on the first respondent and under protest only he was working and taking the class for BE students and according to him, since it has become difficult to take classes for BE students as he is not familiar to take classes for BE students even with respect to Humanities subjects and therefore, he wanted a change to be made and he need to be given classes for MBA program alone. The said request was not considered by the college Management. Therefore, there was a conflict between the first respondent and college Management, which resulted in a disciplinary action which was initiated against the first respondent and after enquiry it was concluded that the first respondent has not obeyed the work allotment given to him by the college Management. Ultimately, the first respondent was removed from service by the orders passed by the college Management in the year 2000. Challenging the said order the first respondent filed the aforesaid writ petition.

5. The learned Judge of the writ Court, having heard both sides has allowed the writ petition by giving the following directions.



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" 12. Now that it is submitted by the learned counsel on either side that the petitioner has been terminated in the year 2000 and he has attained superannuation in 2007, therefore, the question of reinstating the petitioner in service does not arise at all and the petitioner is only entitled for backwages in full.

13. In such view of the matter, this writ petition is disposed of by directing the respondents to calculate backwages and other terminal benefits of the petitioner and settle the same within a period of three months from the date of receipt of a copy of this order. No costs."

6. Challenging the said order, the present writ appeal has been directed by the College Management.

7. Heard Mr.Abhishek Jenasenar, learned counsel for the appellant, Mr.V.Govardhan, learned counsel for the first respondent and Mr.K.V.Sajeev Kumar, learned Special Government Pleader for the second respondent.

8. It has been stated by the learned counsel for the appellant that the classes that have been entrusted to the first respondent to be handled for B.E students is nothing but managerial subjects, that kind of classes can very well be handled by a



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person like the first respondent as he is qualified to handle such classes. Merely because he has been asked to take classes for B.E students, that too in Management subject which is familiar to him, he cannot take revolting stand against the college Management and his attitude in not obeying the college Management was not conducive to the smooth functioning of the college and therefore it was necessitated to take against against him.

9. Since the charges were proved, as he admittedly refused to take classes for B.E. students, the college Management had to take necessary action to remove him from service. Therefore he was terminated, of course after conducting proper enquiry in this regard and therefore, the first respondent cannot have any grievance over the said order passed by the college Management.

10. The learned counsel would further submit that, however the learned Judge who heard the writ petition was of the view that, insofar as the lecturer who is not a qualified B.E graduate cannot handle the class for B.E., even in humanities subject. Therefore, the Court was of the view that reasons and inconvenience expressed by the first respondent herein was a reasonable one and accordingly the learned Judge was pleased to allow the writ petition, of course erroneously. Hence, the learned counsel seeks the indulgence of this Court.



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11. However, the learned counsel for the first respondent would contend that he was appointed as Lecturer, subsequently promoted as Assistant Professor only in the Department of Management Studies for taking classes for MBA program. When that being so, suddenly after 1996-97 the Head of the Department concerned, had given orders directing the first respondent to handle classes for B.E students. As far as humanities subjects is concerned, which form part of the curriculum of the B.E graduate course is concerned, it is not that much familiar to the first respondent and therefore, he cannot easily handle the classes, because of which the students would not be benefited and it will be not only difficult for the first respondent, but also the students to whom he was asked to take classes in humanities subject for B.E students.

12. Even though enough classes could be taken by the first respondent for the managerial students ie., Management Science itself for MBA program, for the reasons best known to the college management, MBA program was not allotted to the first respondent suddenly after 1997-98, for which no reason could be stated by the college Management.

13. Even though it has been brought to the notice of the college management by the first respondent / Assistant Professor more than once, continuously they wanted him to be pressed into service only for the B.E. degree course, and therefore he could not manage to classes in the humanities subject



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successfully.

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14. According to the learned counsel for the first respondent, there has been no fault on the part of the first respondent and because of the unfamiliarity on the part of the first respondent in the humanities subject, he could not successfully take classes, for which the college management had taken the drastic step of dismissing / removing him from service. Therefore, such removal is arbitrary exercise and hence the learned Judge, while it was challenged before him, was pleased to allow the writ petition.

15. Since the first respondent reached superannuation in the year 2007, the question of reinstatement since was not possible, the learned Judge was pleased to direct the college Management to calculate and pay full back wages from 2000 to 2007, the period for which the first respondent was out of service. Therefore, the said order is a reasoned order and hence it does not require any interference from this Court, learned counsel for the first respondent contended.

16. The only issue that is to be decided in this appeal as has been held by the learned Judge in the order impugned is as to whether the action taken by the appellant / college Management pressing the first respondent / writ petitioner into service for taking classes in humanities subject for B.E students is justifiable or not.

17. The learned Judge, in order to find answer to that question, has traced from the appointment of the first respondent till the termination order. Insofar as



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the familiarity with the subjects by the first respondent is concerned, which is management studies or managerial science, that would be mainly focused only in MBA program. If at all there are any humanities subjects, which are also to be taught for the B.E students, for which there is a department which is available in the appellant college, as they have to only handle B.E. humanities subjects. The primary job of the first respondent is to take classes for MBA students and he had been taking such classes for MBA students from his appointment ie., 1982 to 1996-97 without any blemish. When that being so, all of a sudden it was the decision taken by the college Management to divert him to the B.E classes to take humanities subjects, for which it was the claim of the first respondent that he is not familiar with those subjects.

18. When that being so, in academic subjects if a Professor or Teacher or Lecturer is not familiar with the subject, he cannot be compelled to take classes in that particular subject and he must be entrusted only with the subjects wherein he is familiarity with, for which he was appointed and had been working. This position has been correctly considered and decided by the learned Judge in the impugned order. Therefore, the reasoning as well as the conclusion reached by the learned Judge in passing the order in the writ petition and eventually allowing the same cannot be found fault with.

19. However during the arguments, it was contended by the learned counsel



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for the appellant College that during the period ie., between 2000 to 2007, as he was removed from service in 2000 and he otherwise would have been superannuated in 2007, the first respondent was working for gain in some other institutions and therefore, the question of paying any back wages to him does not arise.

20. In this context, the first respondent has filed a counter affidavit, where the following particulars have been stated.

7. I submit after I was terminated from service on 09.02.2000, I was out of employment from 09.02.2000 to 24.05.2000. I am listing the employment details after my termination from service till the date of superannuation ie., 20.11.2007.

S.N o.	Period of Employment	Name of the Institution	Salary Drawn
1.	25.05.2000 to 28.02.2001	Adhi Parasakthi Engineering College	Rs.19,000/-
2.	01.03.2001 to 30.06.2002	Kongu Engineering College	Rs.23,000/-
3.	08.08.2002 to 20.02.2004	Nehru College of Management, Coimbatore	Rs.20,000/-
4.	03.03.2004 to 04.02.2005	AVC College of Engineering	Rs.25,000/-
5.	05.02.2005 to 05.07.2005	KSR College of Engineering	Rs.27,500/-
6.	13.07.2005 to 04.07.2008	MPNMJ Engineering College	Rs.30,000/-

21. Therefore, from the date of removal ie., 09.02.2000 till 24.05.2000, he was out of service. Thereafter, he joined Adhi Parasakthi Engineering College and



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he was drawing a salary of Rs.19,000/-. Thereafter, he had been working in various colleges and ultimately he joined in 2005 in MPNMJ College, where he was working from 2005 to 2008. In these colleges when he was working from 2000 to 2007-08, he was drawing only consolidated pay, which he has stated in Para 7 of the said counter affidavit which has been quoted herein above.

22. Therefore, insofar as the said amount is concerned since he has already earned the same, after deducting the said amount, if at all the first respondent is entitled to get back wages, that has to be calculated. However, in this regard we feel that, between 2000 to 2007, the first respondent was out of service. This writ petition, though was filed in 2001, was disposed of only in the year 2013, as 13 years the writ petition was pending before this Court. In the meanwhile he attained superannuation in 2007 and between 2000-2007 he had been working in various colleges and was drawing some salary by way of consolidated pay, he has stated in his counter affidavit, which is extracted herein above.

23. Therefore, during this period since the first respondent herein was not working, for whatever reason, with the appellant college, it may not be justifiable to seek for full salary from the college management. Therefore, to meet the ends of justice, we feel that the impugned order can be modified to the following extent.

- After deducting the consolidated salary that the first respondent has received admittedly from various institutions between 2000 to 2007, the remaining amount, based on the AICTE scale, including



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the pay scale for his promoted position as Professor had he been working in the appellant college, be calculated and 50% of the said amount shall be paid by the college management to the first respondent.

- Likewise, 50% of the terminal benefits calculated in the same manner as directed above shall be paid by the college management to the first respondent.
- The aforesaid calculation and payment shall be made by the appellant college Management within a period of two months from the date of receipt of a copy of this order.

With the above modification in the impugned order passed by the writ Court, the writ appeal is disposed of. No costs.

(R.S.K.,J.) (G.A.M.,J.)
20.12.2023

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KST

To

Director of Technical Education
Guindy, Chennai 600 025.



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