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W.P.No.31322 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.31322 of 2012
and M.P.No.1 of 2012

K.B.Nidheesh

...Petitioner

-Vs-

1. The Vice Chancellor,
Pondicherry University,
Puducherry.

2. The Registrar-in-charge,
Pondicherry University,
Puducherry,

3. The Deputy Registrar (Administration),
Pondicherry University,
Puducherry.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorari, to call for the records relating to the order dated 12/13-09-2012 in Office Order No.220 in reference No.PU/Estt/NT3/2012-13/81 of the second respondent herein and quash the same.

For Petitioners : Ms.A.L.Ganthimathi, Senior Counsel
For Mr.L.Palanimuthu

For Respondents : Mr.A.V.Bharathi



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ORDER

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This writ petition has been filed challenging the order passed by the second respondent dated 12.09.2012, thereby imposing penalty of reduction in pay to the initial stage of the pay scale for a period of five years, without cumulative effect.

2. The petitioner was appointed as Lecturer in the department of Commerce in the respondents university by an order dated 15.09.2006. Subsequently, he was confirmed in the said post on completion of his probation period. While he was working as Assistant Professor, he submitted his M.Phil thesis. In respect of the thesis submitted by the petitioner, he was requested for clarification, on receipt of some anonymous letters. Thereafter, the petitioner was served with charge memo dated 17.06.2011, with regard to plagiarism in the papers published by the petitioner. On receipt of the same, the petitioner submitted his explanation. However, without satisfying the explanation, the enquiry was ordered.

3. Before the enquiry officer, the petitioner was given



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opportunity and on completion of enquiry, the enquiry officer submitted his report that all the charges were proved. Thereafter, the petitioner was given liberty to give explanation on the enquiry report. On receipt of the said explanation, by an order dated 12.09.2012, the second respondent imposed punishment or reduction in pay to the initial stage of the pay scale for a period of five years without cumulative effect. Aggrieved by the same, the petitioner filed the present writ petition with the above said prayer.

4. The learned Senior Counsel appearing for the petitioner submitted that the petitioner never admitted any charges as alleged in the impugned order. In fact, he had used the thesis papers which were already submitted for research purpose and due to inadvertently some of them were reflected in his thesis. Therefore, it would not amount to plagiarize and the petitioner was not given enough opportunity of hearing. The entire disciplinary proceedings is in violation of principles of natural justice. In fact the petitioner was not served with material particulars as alleged in the charges and as such the petitioner was not able to cross examine the management witness. That apart, the relevant papers which are the basic to frame the charges of plagiarism have not



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been supplied to the petitioner. The petitioner never accepted any charges. However the findings of the second respondent is that the petitioner accepted the charges as alleged by the enquiry officer. Hence, he prayed to set aside the punishment imposed by the second respondent.

5. The respondents filed counter and the learned counsel appearing for the respondents submitted that it was brought to the notice of the respondents university vide communication dated 14.02.2011 that the petitioner had indulged in plagiarism in publishing papers. Therefore, the petitioner was served with charge memo and the petitioner also submitted his explanation dated 14.03.2011. In his explanation, he categorically mentioned that the research papers were not used for academic promotions and there was no monetary benefits claimed. Further, he admitted the charges and sought for apology.

5.1. Therefore, it was placed before the meeting of the Executive Council held on 24.03.2011 along with two other similar cases. After giving reasonable opportunity to the petitioner, enquiry was conducted and on the enquiry report, the petitioner was directed to submit his explanation. Again, he submitted his explanation and it was not



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satisfactorily as such, finally the petitioner was punished with the punishment of reduction in pay to the initial stage of the pay scale for a period of five years, without cumulative effect. In fact, the petitioner also filed an appeal before the first respondent and while pending the appeal the petitioner approached this Court challenging the order of punishment imposed by the second respondent. Hence, he prayed for dismissal of the writ petition.

6. Heard the learned counsel appearing on either side and perused the material placed before this Court.

7. The petitioner submitted his thesis papers in pursuant to his M.Phil degree in which, the following papers were plagiarized by the petitioner on various occasion :-

“a) "Business Factions and Combination of Capital of Indian Firms" published in Advances in Management - Vol.2(4) April (2009). The petitioner has copied verbatim, all the tables, contents and findings from the Working Paper No.34 published by Birmingham Business School of University of Birmingham - "Finance and Development: Research programme on Business Groups & Capital Structure: Evidence



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on Indian Firms (2001)" by Ronny Manos, Christopher Green & Victor Murinde.

b) "Foreign Investment in India: Pain or Panacea? A study With Reference to BSE and NSE" published in Indian Journal of Finance (June 2008) Pages 31-39.

c) "National Rural Employment Guarantee Programmes & Amelioration of Poverty Among Tribal People" published in Indian Journal of Social Development, Vol.8, No.2 (December 2008) Pages 229-244.

d) "Role of Co-operative Banks in Catering to the Credit Needs of Rural Masses" in two different journals.

e) "Agricultural Insurance In India" published in Indian Journal of Finance (March 2010) Pages 25-35

f) "Financial Status of Tribal People - A Study in Wayanad District" published in Research Bulletin Pages 143–152.

g) "Investment in Pension Funds in India" published in PRAVARTAK, Vol.III, Issue 4 pages 30-39

h) "Rural Women's Empowerment is the Best Strategy for Poverty Eradication in Rural Areas" published in International Journal of Rural Studies (IJS) Vol. 15 No.2, October 2008 Pages 36 - 37”



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8. The petitioner was called for explanation in respect of plagiarism. The petitioner submitted his explanation and the same was placed before the Executive Council and the committee issued notice to the petitioner, thereby directed the petitioner to appear before the committee. Accordingly, the petitioner had appeared before the committee and confessed that he has plagiarized some papers and expressed his apology. After considering the facts and materials, the committee has submitted its report dated 27.04.2011 and on the basis of the committee report, the departmental proceeding was initiated as against the petitioner.

9. Once again the petitioner was called for explanation for the charges and on receipt of the explanation, enquiry officer was appointed to conduct enquiry. After completion of enquiry, the enquiry officer submitted his report concluding that the charge of plagiarism of paper was proved by the report dated 26.04.2012. It was served on the petitioner and called upon the petitioner's explanation. On receipt of the same, the petitioner submitted his explanation and he also submitted his clarification. The enquiry report, explanation and all relevant materials



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were placed before the Executive Council. Finally the second respondent imposed the punishment of reduction in pay to the initial stage of the pay scale for a period of five years, without cumulative effect.

10. On perusal of the explanation submitted by the petitioner revealed that he accepted the mistake in united manner and sought for apology. In fact, the committee recommended to impose punishment of dismissal from service, not to promote for three years, three increments be withheld or barred from any administrative responsibility for the next five years. On receipt of the said recommendation, the second respondent imposed the punishment of reduction in pay to the initial stage of the pay scale for a period of five years, without cumulative effect. Considering the above facts and circumstances, this Court finds no infirmity or illegality in the order passed by the second respondent and the writ petition is devoid of merits.

11. Accordingly, the Writ Petition stands dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to cost.



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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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