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W.A.No.3553 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2023

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE K.KUMARESH BABU

W.A.No.3553 of 2019
and
C.M.P.No.22820 of 2019

The Registrar,
Anna University,
Anna University Campus,
Sardar Patel Road,
Chennai – 600 025.

... Appellant

Vs.

Dr.P.Devadas Manoharan

... Respondent

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, praying
to set aside the order dated 09.01.2019 in W.P.No.3381 of 2018.

For Appellant : Mr.Avinash Wadhwani

For Respondent : Mr.A.Arumugam

for Mr.S.Saravanan (Caveator)



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JUDGMENT

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

This appeal has been directed against the order passed by the Writ Court in W.P.No.3381 of 2018 dated 09.01.2019.

2. The respondent was functioning as a Vice Chancellor of the appellant University i.e. Anna University during the period between 15.07.2010 and 31.07.2012.

3. After his completion of the tenure as Vice Chancellor, he had returned back to his original position i.e. Professor, Department of Civil Engineering, CEG Campus of the University at Trichy.

4. While that being so, on 01.02.2018 a charge memo in Memo No.30181/PR11/1992 was issued against the respondent, where certain charges had been framed against him. The said charge memo was under challenge before the Writ Court in the aforesaid writ petition.



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5. The learned Judge who heard the matter was pleased to quash the said charge memo however observed that, it is open to the authorities concerned to take action to all the concerned persons in accordance with law.

6. The main ground on which the learned Judge quashed the charge memo was for want of jurisdiction as the said charge memo was framed and issued by the Registrar of the University who is not supposed to frame charge against a person who had been working as Vice Chancellor of the University as the charge inasmuch as had been framed only making allegations against the former Vice Chancellor for the alleged violations that he has said to have been committed during his tenure as Vice Chancellor of the University from 15.07.2010 and 31.07.2012. Aggrieved over the said order passed by the Writ Court, the present appeal has been directed.

7. We have heard Mr.Avinash Wadhwani, learned counsel appearing for the appellant and Mr.A.Arumugam, learned counsel appearing for the respondent.



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8. Mr.Avinash Wadhwani, learned counsel appearing for the appellant wanted to justify the action on the part of the appellant Registrar to frame such charges on the ground that, originally the respondent was working as a Professor of the University College and subsequently had been selected and appointed as a Vice Chancellor and thereafter after his completion of tenure as Vice Chancellor, he had been reverted back to original position as Professor, therefore on the date when the charge was issued on 01.02.2018, he was no more Vice Chancellor and he was only working as a Professor, therefore on that ground there was justification on the part of the appellant Registrar to issue the charge memo.

9. The said argument made on behalf of the appellant cannot be countenanced for two reasons, the first reason is that, insofar as the four charges that has been framed against the respondent through the impugned charge memo dated 01.02.2018 is with relates to his actions or alleged actions or omissions or commissions during his tenure as Vice Chancellor of the University i.e. between 15.07.2010 and 31.07.2012.



10. In this regard, the relevant University Statute as amended by

Act 20 of 2011 reads thus:

“(4-A) The Vice-Chancellor shall not be removed from his office except by an order of the Chancellor passed on the ground of willful omission or refusal to carry out the provisions of this Act or for abuse of the powers vested in him and on the advice tendered by the Government on consideration of the report of an inquiry ordered by them under sub-section (4-B).

(4-B) For the purposes of holding an inquiry under section (4-A), the Government shall appoint a person who is or has been a judge of the High Court or who is or has been an officer of the Government not below the rank of Chief Secretary to Government. The inquiry authority shall hold the inquiry after giving an opportunity to make representation by the Vice-chancellor and shall submit a report to the Government on the action to be taken including penalty, if any, to be imposed, and the Government shall on consideration of the report advise the Chancellor. The Chancellor shall Act in accordance with such advice, as far as may be, in any case within three months.”

11. Therefore as per Clause (4-A) of the Amended Provision, as stated supra, of the Act, the Vice Chancellor shall not be removed from his office except by an order of the Chancellor passed on the ground of willful omission or refusal to carry out the provisions of this Act or for abuse of the powers vested in him and on the advice tendered by the Government on consideration of the report of an inquiry ordered by them under sub-section (4-B), (4-B) also as quoted herein above.



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12. Therefore the way in which the charge memo having been framed and issued against the respondent through the impugned charge memo dated 01.02.2018 is concerned, that has been framed by the University Registrar and had been issued by him.

13. In this context, it is to be noted that, the charge memo if at all to be issued, it shall be issued only by the Disciplinary Authority where the Disciplinary Authority is the Chancellor of the University.

14. Assuming that, during the position where the respondent had been subsequently reverted to Professor post even in respect of a Professor who is the Disciplinary Authority, that has been mentioned in Appendix I of the Statute of the University i.e. Anna University Statutes on Disciplinary Procedure, which also, i.e. Clause 1(c) of Appendix - I to the Statute, reads thus:

c) In the case of Professor, Deans, the Vice-Chancellor
Directors, Heads of Departments,
Registrar of the University, Placement
& Training Officer, Finance Officer,
Estate Officer, University Engineer,
University Librarian, Medical Officer.



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15. Even in respect of a Professor of a College or an University under the control of the appellant University, the Disciplinary Authority is the Vice Chancellor not by the Registrar.

16. Therefore, even on that count the charge ought not to have been framed and issued by the Registrar, who is the appellant herein, against the respondent.

17. Therefore on both counts the arguments advanced by the learned counsel appearing for the appellant on the basis of the intra-Court appeal grounds that have been urged on behalf of the appellant are untenable and also against the Act as well as the Statute.

18. This has been already considered by the learned Judge that is why the Writ Court has quashed the impugned charge memo, despite that, on whose advise this *lis* has been again initiated by filing the intra-Court appeal is not known. Be that as it may, this intra-Court appeal is completely bereft of any merits, therefore it is liable to be rejected.



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19. Even though we thought of dismissing this writ appeal with heavy cost but on the request that has been made by the learned counsel appearing for the appellant, we are refrained ourself from imposing any cost on the appeal. In the result, this appeal is liable to be dismissed, accordingly it is dismissed. It has been brought to our notice by the learned counsel appearing for the respondent that, because of the pendency of the *lis*, the terminal benefits of the respondent has not so far been disbursed by the University. If so, the same shall be calculated and be disbursed to the respondent within a period of eight weeks from the date of receipt of a copy of this judgment. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[R.S.K., J.] [K.B., J.]
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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

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