



W.P.No.20192 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Writ Petition No.20192 of 2014

R.Gowrishankar Petitioner

-Vs-

1.The Appellate Authority / Syndicate
Annamalai University, Chidambaram.

2.The Registrar
Annamalai University
Chidambaram.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 2nd respondent on 25.11.2013 in University Order No.1157/2013 (C2), communicating the order of Rejection of the petitioner appeal, by a Resolution of the Syndicate viz., the 1st respondent in Resolution No.29, dated 17.09.2013 and quash the same, consequently direct the respondents to reinstate the petitioner into service within a reasonable time to be fixed by this Honourable Court.

For Petitioner : Mr.P.Ganesan

For Respondents : Mr.N.Ramiah
Standing Counsel

ORDER



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The petitioner was an employee with the respondent University. He was an Assistant Programmer in the Department of Distance Education. He was terminated from service on the basis of misappropriation of a sum of Rs.4,92,540/- being the Tuition Fees paid by the students to the University between the year 2009 to 2012.

2. According to the respondents, the petitioner used his user ID and created false entries in the H-Section of the Department of Distance Education. On 22.12.2012, the petitioner gave a letter stating that he had misappropriated a sum of Rs.30,000/- and not Rs.4,92,540/-. In a subsequent letter, he had stated that he had given that letter only on account of the fact that the enquiry officer had stated that if such a letter is given, they will receive such letter and let him go scot-free.

3. Mr.P.Ganesan, learned counsel for the petitioner would submit that persons similarly situated had paid the amounts misappropriated by them and they were taken back into service and that the petitioner should be given the same benefit.

4. I am agreeable with the said submission of the learned counsel for the petitioner. Here is a case where the petitioner is said to have misused his login



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ID and manipulated the records. Unfortunately for the respondents, but fortunately for the petitioner, no proper enquiry seems to have been conducted.

The enquiry proceeded in collecting letters from each of the parties and on that basis, the report was submitted. An enquiry contemplates framing of charges, receipt of a reply to the show cause notice, having a presenting officer, examination of witnesses and permission to cross examination etc., None of these procedures were followed by the respondents. The enquiry seems to be extremely summary, so summary that only letters were received and on that basis, a report had been entered into.

5. I had called for the records from the University, since Mr.Ramaiah learned Standing Counsel appearing for the respondent University had vehemently contended that the enquiry was conducted. He produced the same. I have gone through the records and I do not find any opportunity, as required by law had been furnished to the writ petitioner. As already stated, all that they had collected were letters from the concerned parties and on the basis of the letters, enquiry report was submitted.

6. I am not inclined to go into the merits as to whether there is any misappropriation or not in the light of the order that I propose to pass. The impugned order is set aside and the matter is remitted back to the respondents for the purpose of issuing proper charge memo to the petitioner and receive his



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reply and thereafter conduct a proper enquiry, and on that basis if it comes to the conclusion that the charges have been proved, to issue a second show cause notice along with the enquiry report. In case the petitioner succeeds in proving that he is not guilty, the exercise must stop with that. As more than ten years have lapsed, such exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

7. It is made clear that it is open to the respondents to reject any request for adjournments made by the writ petitioner in case it feels that it is dilatory tactics. The petitioner will not be entitled to backwages from the date of termination till date as he has not worked for the said period. The petitioner shall be deemed to be under suspension from the date of the order and will be entitled to subsistence allowance, if it is applicable to respondent educational institution.

8. With the above directions, the writ petition stands allowed. No costs.

26.06.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order / Non-speaking order
KST



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To

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V. LAKSHMINARAYANAN, J.

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