



W.P.No.14006 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2023

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.14006 of 2017

1. The Correspondent-cum-Secretary
Management of Palani Andavar
Polytechnic College
Palani, Dindigul District.

2. The Principal
Palani Andavar Polytechnic College
Palani, Dindigul District.

.. Petitioners

Vs.

1. The Director of Technical Education
Guindy, Chennai 600 025.

2. S.Kalayarasi (Deceased)

3. A.Parthasarathy

4. A.Tharunaprabha

.. Respondents

[R3 & R4 substituted as LR's of R2
vide order dated 06.04.2022 made
in Memo dated 04.04.2022]

PRAYER: Petition under Article 226 of the Constitution of India
praying for a writ of Certiorari to call for the entire records relating
to the impugned proceedings of the first respondent in his Letter
Rc.No.26551/C1/2013 dated 03.09.2016 and quash the said
proceedings of the first respondent dated 03.09.2016.



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For the Petitioners : Mr.Ramesh Venkatachalapathy

For the Respondents : Mr.T.Chezhan
Additional Government Pleader
for Respondent-1

Mr.N.Kumar Rajan
for Respondents 3 & 4

ORDER

The petitioners' case is that the second respondent joined their Polytechnic College in the year 1981 and in respect of the charge memo issued to her, the second respondent challenged the same in W.P.No.20237 of 1999. The said charge memo was quashed and the respondents were directed to reinstate her in service, making it clear that she was not entitled to monetary benefits during the period of absence, but her service will be counted for the purpose of retirement benefits. Ultimately, in W.A.No.1387 of 2001, the Division Bench of this Court, taking into account the fact that the second respondent was re-instated on 23.01.2004, confirmed the order passed in the writ petition.

2. The second respondent thereafter filed W.P.(MD) No.8237 of 2011 seeking to quash the impugned proceedings dated



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05.03.2010 and consequently, to direct payment of service benefits to her except the period of absence between 02.07.1987 to 04.05.1988. The said writ petition was disposed of directing the respondents therein to pay the entire benefits from the date of her entry into service till the actual date of superannuation, excluding the period of absence between 02.07.1987 and 04.05.1988.

3. The second respondent interpreted the above order of this Court as if she is entitled to count the period when she did not work only towards the account of terminal benefits and not for salary. The petitioners also filed writ appeal as well as review to clarify the nebulous position. However, the impugned order came to be passed directing the petitioners to pay the arrears based on the representation of the second respondent dated 24.08.2015. This order is under challenge in this writ petition.

4. The first respondent has filed a counter stating that the petitioners have contributed for the delay by litigating the issue before this Court by way of writ appeal and review and the petitioners are liable to pay the monetary benefits to the second respondent and the first respondent cannot be directed to pay the



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the monetary benefits, excluding the period of absence, to the second respondent.

5. It is also brought to the notice that pending writ petition, the second respondent died and her legal representatives have been substituted as respondents 3 and 4, who are son and daughter of the second respondent.

6. Heard Mr.Ramesh Venkatachalapathy, learned counsel for the petitioners, Mr.T.Chezhan, learned Additional Government Pleader for the first respondent and Mr.N.Kumar Rajan, learned counsel for the respondents 3 and 4.

7. At the very outset, it is seen from the impugned order that, after referring to the directions in W.P.(MD) No.8237 of 2011, the reason cited therein is that the petitioner Management, without seeking any approval or permission from the first respondent, took a unilateral decision and therefore, the first respondent is not liable to pay or settle the claim of the second respondent. This Court had directed learned counsel for the petitioners to produce the original records.



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8. Today, Mr.Ramesh Venkatachalapathy, learned counsel for the petitioners produced the original records pertaining to the subject matter. It is seen that on 04.08.1992, the authorised person of the first respondent has participated in the proceedings. Therefore, the contention of the first respondent that the decision was taken by the petitioners unilaterally and without their prior approval cannot be accepted, which is the only narrow dispute in this matter pertaining to the liability of the petitioners or the first respondent to pay the terminal benefits which remain unpaid to the second respondent and now consequent to her demise, to her children respondents 3 and 4.

9. The only reason given in the impugned order is that prior approval of the first respondent was not obtained. However, it is seen that such a contention is factually incorrect and under such circumstances, the impugned order is liable to be set aside and accordingly, it is set aside and the first respondent is directed to settle the terminal benefits payable to the second respondent (in view of her demise, to the respondents 3 and 4) within a period of six weeks from the date of receipt of a copy of this order.



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10. The writ petition is allowed. There will be no order as to costs. Consequently, WMP Nos.15216 to 15218 and 30573 of 2017 are closed.

30.06.2023

Index : Yes/No
Neutral Citation : Yes/No

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To

The Director of Technical Education
Guindy
Chennai 600 025.



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P.B.BALAJI,J.

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