



W.A(MD)No.804 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2023

CORAM:

**THE HON'BLE MR JUSTICE R. SURESH KUMAR
AND
THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN**

**W.A(MD)No.804 of 2012
and
M.P(MD)No.1 of 2012
and
M.P(MD)Nos.1 & 2 of 2014**

1.Thiagarajar College of Engineering,
Rep. by it's Chairman & Correspondent,
Madurai-625 015.

2.The Principal,
Thiagarajar College of Engineering,
Madurai-625 015.

... Appellants/
Respondents 2 & 3

.Vs.

1.V.Ganesan

2.The Commissioner of Technical Education,
Guindy,
Chennai-600 025.



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3.The Member Secretary,
All India Council for Technical Education,
7th Floor, Chandalock building,
Janapathi
New Delhi.

4.The Joint Secretary,
Bureau of Technical Education,
Department of Higher Education,
Ministry of Human Resource Development,
Government of India,
New Delhi.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent Act, to allow the writ appeal with costs by setting aside the order passed in W.P(MD)No.537 of 2012, dated 05.09.2012.

For appellants	: Mr.Isaac Mohanlal Senior Counsel for Mr.Raguvaran Gopalan
For R1	: Mr.E.V.N.Siva
For R2	: Mr.D.Sadiq Raja, Additional Government Pleader
For R3	: Mr.N.Dilipkumar

JUDGMENT

(Order of the Court was made by R. SURESH KUMAR,J.)

This Intra Court appeal has been directed against the order passed by the Writ Court in W.P(MD)No.537 of 2012, dated 05.09.2012. The said writ petition



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was filed by the first respondent herein, who was appointed in the appellants college as Instructor (Electrical) on 08.07.2010 and had been working there in that capacity who had been paid the salary.

2. However, at one point of time, in October 2011, the appellants college stopped paying the salary by sending a communication to the first respondent stating that the post, where, the first respondent was appointed and working there, was a sponsored post through a scheme for which, aid has to be given only by All India Council for Technical Education (AICTE) and since the aid was stopped by the said authority, no more salary can be paid to the first respondent unless and until the aid has come from the said authority.

3. Only at this juncture, the said writ petition has been filed by the first respondent. The learned Single Judge, who heard the matter, allowed the said writ petition by an order dated 05.09.2012, which is impugned in this writ appeal.

4. Today, when the writ appeal is taken up for final hearing Mr.Isaac Mohanlal, learned Senior Counsel appearing for the appellants, on instructions,



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would submit that the first respondent had been working for long years even prior to 2010 appointment and prior to October 2011 and after 06.08.2013 there had been no issue with regard to the salary payable to the first respondent, which in fact, have been admittedly paid but during the said period between October 2011 and August 2013 ie., upto 06.08.2013 the appellants college could not pay the salary to the first respondent because of the fund that was expected from the AICTE, has not come.

5. Subsequently, it has been regulated and there has been no quarrel beyond 06.08.2013, where, the first respondent was given salary.

6. Therefore, for the period between October 2011 and 06.08.2013 is concerned, the appellants college is ready and willing to make the salary payable to the first respondent after deducting 3 months salary which has been already paid during interregnum period to the first respondent.

7. The learned Senior counsel appearing for the appellants would further submit that insofar as seeking aid either from AICTE or from the State



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Government because of the PG programme which is sponsored one being conducted at the appellants college, the appellants have already filed a separate writ petition in W.P(MD)No.940 of 2013, therefore, either the same can be taken up by this bench or it can be taken up by the appropriate bench as per the roster at an early date, so that, the prayer sought in the writ petition i.e., W.P(MD)No.940 of 2013 can be persuaded and an early decision can be obtained by the appellants.

8. Insofar as the said submission made by the learned Senior counsel appearing for the appellants, Mr.E.V.N.Siva, learned counsel appearing for the first respondent has no objection and he has not controverted the above stated facts. Therefore, having taken note of the said submission made by both sides and having regard to the factual matrix, this Court is inclined to dispose of this writ appeal with the following orders:-

“(i) That the order passed by the learned Single Judge, which is impugned, is to be sustained accordingly is sustained.



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(ii) As a sequel there shall be a direction to the appellants to release the salary payable to the writ petitioner/first respondent for the period from October 2011 to 06.08.2013 after deducting three months salary and the same shall be paid to the first respondent within a period of 6 weeks from the date of receipt of a copy of this order.

9. Disposal of this writ appeal would not preclude the appellants, who filed the writ petition in W.P(MD)No.940 of 2013, to pursue the said matter on merits. In this regard, even though, a judicial order was passed by the learned Single Judge in the said writ petition in W.P(MD)No.940 of 2013 to post the said writ petition along with present writ appeal, we feel that, it has to be decided by the Hon'ble Administrative Judge on the administrative side. Therefore, the Registry is directed to place it before the Hon'ble Administrative Judge to take a decision as to before which Bench the writ petition is to be posted for hearing.

10. With this direction and observation, the writ appeal is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.



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11. It is further made clear that merely because the salary for the period mentioned above has been directed to be paid to the first respondent, that payment ipso facto would not put the appellants in disadvantageous position to pursue the writ petition.

[R.S.K.,J.] [K.K.R.K.,J.]
07.03.2023

Index : Yes / No
Internet : Yes / No
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To

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R. SURESH KUMAR, J.
and
K.K.RAMAKRISHNAN, J.

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JUDGMENT MADE IN
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