



W.P.No.1741 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.1741 of 2020
and W.M.P.No.2018 of 2020

P.Somasundaram

...

Petitioner

/vs/

1. Anna University,
Rep. by its Registrar,
Chennai – 25.

2. The Syndicate,
Rep. by its Chairman,
Anna University,
Chennai – 25.

3. The Vice-Chancellor,
Anna University,
Chennai – 25.

4. Prof. K.Jayaraman
5. S.Muttan

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records pertaining to 09.12.2019 in Memo No.61354/PR22/2018 passed by the first respondent, quash the same and consequently direct the respondents to



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hold a fresh and denovo enquiry in accordance with law and by appointing a new Enquiry Officer and Presenting Officer and by giving the petitioner permission to have a defense assistant and by giving him fair and reasonable opportunity, Award costs.

For Petitioner ... Mr.Richardson Wilson
for Mr.P.Wilson Associates

For Respondents ... Mr.Avinashwadhvani
Standing Counsel for R1 to R3

ORDER

The petitioner has filed this writ petition challenging the order passed by the first respondent in Memo No.61354/PR22/2018 dated 09.12.2019 passed by the first respondent and consequently direct the respondents to hold a fresh and denovo enquiry in accordance with law by appointing a new Enquiry Officer and Presenting Officer.

2. The petitioner who has been subjected to disciplinary proceedings in view of certain charges raised against him was found guilty. On 09.12.2019 the petitioner was given with the impugned notice calling upon his submission with regard to the punishment proposed to be imposed on him.



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3. Mr.Richardson Wilson, the learned counsel for the petitioner, submitted that in the impugned order dated 09.12.2019 itself the second respondent has stated that the petitioner is not a fit person to be retained in service and hence the Syndicate proposes to impose the penalty of dismissal from service on the petitioner. It is submitted that the above idea revealed in the notice would show the predetermined mindset of the respondents and there is no point in calling for any representation from the petitioner. He further submitted that the fifth respondent who has conducted the preliminary enquiry himself has been appointed as the Presenting Officer and hence the petitioner had lost the opportunity to cross-examine the fifth respondent. So it is submitted that appropriate directions should be given to the respondents to permit the petitioner to cross-examine the fifth respondent.

4. Mr.Avinashwadhvani, the learned Standing Counsel for respondents 1 to 3, submitted that without prejudice, the impugned memorandum dated 09.12.2019 itself can be treated as notice and the petitioner can make his submissions. It is further submitted that the fifth



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respondent was not cited as witness on the side of the Department and hence no question of cross-examining the said witness will arise.

5. Without going into the merits of the case, it is now submitted by the learned Standing Counsel for the respondent that the memorandum dated 09.12.2019 can be treated as notice and the petitioner can make his representation with regard to the punishment. However, in the said notice it has been categorically stated that the Syndicate has proposed to impose punishment of penalty of dismissal from service. So treating the said memorandum as the second notice would cause confusion in future communications or the proceedings that might arise at any future point of time.

6. Since the impugned proceedings itself has revealed the predetermined mindset of the second respondent with regard to the quantum of punishment that would be imposed upon the petitioner, I feel it is appropriate to set aside the said memorandum and direct the second respondent to give a fresh notice. However, it is up to the petitioner to



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make a representation before the syndicate to allow him to cross-examine the fifth respondent who happened to be the Presenting Officer as well as the Officer who conducted the preliminary enquiry. However the petitioner is also at liberty of requesting to infer an adverse inference of not examining the fifth as department side witness and allow him to act as Presenting Officer during the domestic enquiry.

7. In view of the above stated reasons, this Writ Petition is partly allowed and the impugned memorandum dated 09.12.2019 in Memo No.61354/PR22/2018 passed by the first respondent is hereby quashed and the second respondent is directed to furnish a fresh second notice to the petitioner and the petitioner is at liberty to make his representation before the Syndicate for permitting him to cross-examine the fifth respondent. No costs. Consequently, connected miscellaneous petition is closed.

22.01.2024

Index: Yes / No
Speaking order / Non-speaking order
Neutral Citation: Yes / No
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R.N.MANJULA ,J.

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To:

1. The Registrar,
Anna University,
Chennai – 25.
2. The Chairman,
The Syndicate,
Anna University,
Chennai – 25.
3. The Vice-Chancellor,
Anna University,
Chennai – 25.

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