



W.P.Nos.4289 & 4293 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.4289 & 4293 of 2024 and
WMP.Nos.4607, 4609, 4612, 4610 & 4611 of 2024

WP.No.4289 of 2024

Dr.G.Geetha

... Petitioner

Vs.

1.The State of Tamilnadu,

Rep. By its Chief Secretary to Government,
Public (Special-A) Department,
Fort St.George, Secretariat,
Chennai 600 009

2.The State of Tamilnadu,

Rep. By its Principal Secretary to Government,
Higher Education Department,
Fort St.George, Secretariat,
Chennai 600 009

3.S.Karmegam

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of certiorari calling for the records relating to the impugned order issued by the first respondent in GO.Rt.No.335, Public (Special-A) Department dated 27.01.2024 and to quash the same.



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For Petitioner : Mr.G.Sankaran,
Senior Counsel
for Mr.G.R.Ramesh Prabbhu

For Respondents
For R1 & 2 : Mr.P.S.Raman,
Advocate General
Assisted by
Mr.D.Ravichander,
Special Government Pleader

WP.No.4293 of 2024

Dr.G.Geetha

... Petitioner

Vs.

- 1.The State of Tamilnadu,
Rep. By its Chief Secretary to Government,
Public (Special-A) Department,
Fort St.George, Secretariat,
Chennai 600 009
- 2.The State of Tamilnadu,
Rep. By its Principal Secretary to Government,
Higher Education Department,
Fort St.George, Secretariat,
Chennai 600 009
- 3.S.Karmegam

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of certiorarified mandamus calling for the records relating to the impugned order issued by the second respondent in GO.(D).No.20, Higher Education(F1) Department dated 31.01.2024 and to quash the same and to pass further orders to conduct enquiry on the charge memo issued by the second respondent vide proceedings in



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charge memo No.106/F1/2024-1 dated 03.02.2024 in accordance with law, by appointing a retired Judicial Officer or a Senior Counsel of High Court of Madras as Enquiry Officer, within a time frame to be fixed by this court.

For Petitioner : Mr.G.Sankaran,
Senior Counsel
for Mr.G.R.Ramesh Prabbhu

For Respondents
For R1 & 2 : Mr.P.S.Raman,
Advocate General
Assisted by
Mr.D.Ravichander,
Special Government Pleader

COMMON ORDER

Writ petition in WP.No.4289 of 2024 has been filed challenging the Government order dated 27.01.2024 thereby appointed the third respondent as Director of Collegiate Education. Writ petition in WP.No.4293 of 2024 has been filed challenging the Government order dated 31.01.2024 thereby suspended the petitioner from her service.

2. The petitioner was originally appointed as Lecturer in Tamilnadu Collegiate Education service in the year 1989 and her



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services were regularised with effect from 26.03.1993 and subsequently she was promoted to the post of Principal Grade-II in the year 2017 and further promoted to the post of Principal Grade-I in the year 2018. it is equivalent to the post of Joint Director of Collegiate Education and it is a feeder post for promotion to the post of Director of Collegiate Education (hereinafter called as DCE). The post of DCE became vacant with effect from 01.06.2019 due to retirement of an incumbent as on 31.05.2019. According to the petitioner, as per the orders of the Government in GO.Ms.No.440 Personnel and Administrative Reforms Department dated 26.10.1990, an officer should have not less than one year left over service before the date of retirement to be eligible for promotion as Head of the Department. However, the second respondent has not taken any steps to prepare panel for the vacancy arose in the post of DCE in the year 2019, whereas the junior of the petitioner was posted as DCE on in-charge basis. Therefore, the petitioner filed writ petition in WP.No.3654 of 2019 and this Court by order dated 13.12.2019 directed the second respondent to consider the claim of the petitioner for promotion to the post of DCE within a period of six weeks.



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2.1 Thereafter, the Government issued orders in GO.Ms.No.95, Higher Education Department dated 30.05.2019 notifying the vacancy in the post of DCE for the year 2019-20. However, no panel was drawn. In the year 2020, the petitioner's name was included in the panel to the post of DCE. However, one Dr.C.Poornachandran was given promotion to the post of DCE by an order dated 14.08.2020. Once again, the petitioner challenged the order of promotion of Dr.C.Poornachandran to the post of DCE in WP.No.12495 of 2020. This Court by order dated 29.10.2020, allowed the writ petition and quashed the promotion of Dr.C.Poornachandran to the post of DCE. However, this Court refused to quash the GO.Ms.No.98 Higher Education(F1) Department dated 14.08.2020 thereby issued panel for the post of DCE for the year 2020-2021. Therefore, the petitioner preferred appeal in WA.No.656 of 2021 insofar as related to the panel notified in GO.Ms.No.98 dated 14.08.2020. The Hon'ble Division Bench of this Court by order dated 06.06.2022 in the writ appeal, quashed the GO.No.Ms.No.98 dated 14.08.2020. Further observed that panel to be drawn for the year 2019-2020 including the candidates who have attained superannuation by



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including them notionally if they are otherwise eligible to be included in the panel, had it been drawn in the year 2019-20 and appointment to the post of DCE must be carried out thereafter. However, the said direction was not complied with and as such, the petitioner filed contempt petition in Cont.P.No.1459 of 2022. Pending contempt proceedings, the second respondent issued GO.(D)No.100 dated 31.03.2023 thereby posted the petitioner as DCE with Full Additional Incharge.

2.2 Thereafter, the petitioner had taken charge on 01.04.2023. Recording the said submission, the contempt petition was closed. While being so, there was complaint lodged by one, Rajagopal, Sankarapuram, Karaikudi and also addressed to the 'Chief Minister Grievance Cell'. On receipt of the same, enquiry was ordered to be conducted by the Commissioner of Tamilnadu Archives and Historical Research Department. The petitioner was served with enquiry notice dated 26.10.2023 to appear for enquiry to be conducted on 02.11.2023. The petitioner attended the enquiry and she was subjected for certain questions with regards to the complaint lodged by the said Rajagopal. In



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order to find out the genuineness of the said complaint, the petitioner wrote a letter to the said Rajagopal and he replied that he did not write any letter to the Chief Minister Grievance Cell. Therefore, the petitioner requested the Enquiry Officer to close the enquiry. While being so, the third respondent was appointed as DCE by the impugned GO.Rt.No.335 Public(Special-A) Department dated 27.01.2024. Thereafter, the petitioner has been demitted from the Office of the DCE and continued as Principal of ThiruVi.Ka. Government Arts College, Tiruvarur. In pursuant to the appointment of the third respondent as DCE, the petitioner was placed under suspension from her service by the Government order dated 31.01.2024 itself impugned in the writ petition in WP.No.4293 of 2024.

3. The learned Senior Counsel appearing for the petitioner submitted that as per GO.Ms.No.269 Higher Education (G1) Department dated 25.11.2022, 1895 Guest Lecturers should be appointed by formulating a Selection Committee with the concerned Regional Junior Director as the Chairman, three Principals in the same region as



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Members, in addition to that, concerned Principal and the senior most SC/ST Professor / Principal not below the rank of Assistant Professor. In four phases, 1500 Guest Lecturers were appointed without formulating a Selection Committee contrary to GO.Ms.No.269 dated 25.11.2022. In fact, only certificate verification was done by the two Assistant Professors and Associate Professors and appointed Guest Lecturers. The Government also directed the petitioner to find out the lowest cut off mark in each subject to fill up the remaining post of Guest Lecturer and to submit details about the appointment of 1500 Guest Lecturers. As directed by the Government, the petitioner had sent circular to all the Regional Joint Directors and the Principals i.e. the Selection Committee Members List. The petitioner also found certain discrepancies in the matter of appointment of Guest Lecturers and she has brought the same to the notice of the second respondent. Therefore, the petitioner was suspended from service on the false complaint, that too scandalous allegations.



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3.1 He further submitted that the Hon'ble Division Bench of this Court categorically held that the panel for the year 2019-20 to be prepared and eligible person to be posted as DCE. In order to comply with the said order, the petitioner was posted as DCE. Therefore, the order of appointment of the third respondent as DCE is clear violation of the order passed by this Court. She was subjected to harassment in the name of enquiry based on the anonymous letter addressed to the Chief Minister Grievance Cell and also on the false allegations now the petitioner was placed under suspension.

4. On perusal of the order dated 27.01.2024 in GO.Rt.No.335 dated 27.01.2024, the third respondent was transferred and posted as Director of Collegiate Education. It was created in the Senior Scale of IAS for a period of one year from the date of appointment or till the need for it ceases, whichever is earlier under Rule 4(2) of the IAS (Cadre) Rules, 1954.



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5. The learned Advocate General appearing for respondents 1 & 2 vehemently objected for grant for interim order since the third respondent has been appointed to the post of Director of Collegiate Education under Rule 4(2) of IAS (Cadre) Rules, 1954. In fact, the third respondent immediately joined in the post of DCE and the petitioner was duly relieved from the post of DCE and she has been continuing as Principal of Thiru Vi.Ka.Government Arts College, Tiruvarur. Based on the serious allegations as against the petitioner, now she has been placed under suspension by order dated 31.01.2024.

6. On perusal of Rule 4(2) of the Indian Administrative Service (Cadre) Rules, 1954 revealed that the Central Government shall, ordinarily at the interval of every five years, re-examine the strength and composition of each such cadre in consultation with the State Government or the State Governments concerned and may take such alterations thereof as it deems fit. Accordingly, sanction was accorded for the creation of temporary post of Director of Collegiate Education in the Senior Scale of IAS for a period of one year. Further, it is equivalent



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in status and responsibility to the cadre post of Director of Social Welfare and hence, the post of Director of College Education in the Senior Scale of IAS was created. It is relevant to extract Rule 12(1) of Indian Administrative Service (Pay) Rules, 2016 hereunder:

(1) No member of the Service shall be appointed to a post other than a post specified in Schedule II, unless the State Government concerned in respect of posts under its control, or the Central Government in respect of posts under its control, as the case may be, make a declaration that the said post is equivalent in status and responsibility to a post specified in the said Schedule II.

6.1 Accordingly, the State Government declared that the post of DCE as equivalent in status and responsibility to a post specified in the said schedule-II. Hence the third respondent has been rightly appointed to the post of Director of Collegiate Education in the Senior Scale of IAS for the period of one year with effect from the date of appointment or till the need for it ceases, whichever is earlier. Accordingly, the third respondent also now joined in the post of DCE.



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7. Further, it is not the case of the petitioner that the third respondent is not competent to be appointed as DCE. As per Rule 4(2) of the IAS (Cadre) Rules, 1954, sanction was accorded for the creation of temporary post of Director of Collegiate Education in the Senior Scale of IAS. Further, the petitioner did not make any specific allegations as against the third respondent while appointing him as DCE, whereas the specific case of the petitioner is that in order to comply with the order passed by the Hon'ble Division Bench of this Court, the petitioner was appointed in the post of DCE. On perusal of the order of appointment, revealed that the petitioner was appointed as Full Additional Incharge to the post of DCE. Already the petitioner holds the post of Principal of Thiru Vi.Ka. Government Arts College, Tiruvarur. Now by creation of the said post in the Senior Scale of IAS, the third respondent has been appointed and as such, this Court find no infirmity or illegality in the appointment of the third respondent as DCE.

8. Insofar as the order of suspension dated 31.01.2024 is concerned, she was subjected for enquiry by the Commissioner of

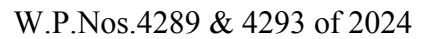


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Tamilnadu Archives and Historical Research Department and it is pending. In view of the serious allegations as against the petitioner, she was placed under suspension from service. Further, it was passed only on 31.01.2024. Therefore, it is premature to challenge the order of suspension since it was not made on any malafide ground.

9. Further as directed by the Hon'ble Division Bench of this Court in WA.No.656 of 2021 dated 06.06.2022, the petitioner was placed in Full Additional Charge of the post of DCE in the place of Dr.M.Easwaramurthy, Retd, until further orders by an order dated 31.03.2023 in GO(D).No.100, Higher Education (F1) Department. Therefore, the petitioner had been placed in Full Additional Charge of the post of DCE till the appointment of the third respondent by creation of temporary post of DCE in the Senior Scale of IAS dated 27.01.2024. Therefore, the petitioner had been in Full Additional Charge to the post of DCE for the period of nearly one year. Thereafter, the third respondent has been appointed to the post of DCE and the petitioner was demitted from the Office of the DCE and continued as Principal of Thiru



10. As such, both the writ petitions are devoid of merits and to be dismissed. Accordingly, both the writ petitions are dismissed. Subsequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

22.02.2024

Neutral citation/Yes/No
Index: Yes/No
Speaking/Non-speaking order
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To

- 1.Chief Secretary to Government,
The State of Tamilnadu,
Public (Special-A) Department,
Fort St.George, Secretariat,
Chennai 600 009
- 2.Principal Secretary to Government,
The State of Tamilnadu,
Higher Education Department,
Fort St.George, Secretariat,
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