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W.A.No.2004 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2024

CORAM

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN**

Writ Appeal No.2004 of 2024

The Principal / Secretary
Madras Christian College
Tambaram East, Chennai 600 059.

... Appellant

Vs.

1.Dr.S.Franklin Daniel
Associate Professor
Department of English
Madras Christian College
Tambaram, Chennai 600 059.

2.The Regional Joint Director
Office of the Regional Joint Director of
Collegiate Education, 9th Floor
EVK Sampath Building, College Road
Chennai - 600 006.

.... Respondents

Writ Appeal under Clause 15 of the Letters Patent against the order dated
10.11.2023 in W.P.No.2180 of 2020.

For Appellant : Mr.Godson Swaminath
for M/s.Isaac Chambers

For Respondents : Mr.T.P.Nithyapriyan
for Mr.F.Terry Chellaraja - for R1

Mr.D.Ravichander
Special Government Pleader - for R2



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J U D G M E N T

(Delivered by **R. SURESH KUMAR, J.**)

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This intra Court appeal has been filed against the order of the Writ Court dated 10.11.2023 made in W.P.No.2180 of 2020.

2. The first respondent / writ petitioner has been working as Associate Professor in the appellant institution and insofar as the examination duty with regard to the semester examinations to be conducted by the college management, he has been the Chairman of the Board of Examinations.

3. Every time, ie., every semester when such examinations are conducted, both internal as well as external examiners are pressed into service. After completion of the examinations, as soon as possible it is expected that the remuneration for the examination duty would be paid by the college management, which would have been collected from the students earlier.

4. However, it seems that insofar as the paying of such remuneration to the examiners for every semester, the same have not been paid in time, which means it had been paid belatedly. This appears to be the main grievance of the first respondent / writ petitioner. Therefore, at last he came forward to write a letter to the Bursar of the college management, who, according to the first respondent / writ petitioner is incharge of disbursing these amounts.



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5. The said letter dated 27.01.2017 triggered the issue as it was considered to be insubordination or violation of the Code of Conduct of Associate Professors of the college. That invited a disciplinary proceedings against the writ petitioner, which ended in the punishment of withholding the increment for five years, as against which when the first respondent / writ petitioner approached this Court by filing the aforesaid writ petition, the learned Writ Court, after having considered the merits of the case by hearing both sides, has ordered the writ petition by the impugned order dated 10.11.2023, whereby the learned Judge had directed to issue warning only against the first respondent / writ petitioner by setting aside the punishment awarded against him. Aggrieved over the same, the present intra Court appeal has been preferred by the college management.

6. Heard Mr.Godson Swaminath for M/s.Isaac Chambers, learned counsel for the appellant. He would canvass the point that the Bursar is the superior officer of the writ petitioner, who is only an Associate Professor, and the Bursar, to whom such a letter has been addressed, is one of the Board of Governors. Therefore, such a letter ought not to have been written to him and it should have been written only to the Controller of Examinations.



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7.He has also stated that the language used by the first respondent / writ petitioner in the said letter also cannot be said to be in consonance with the decorum to be maintained by the concerned Associate Professor of the college. On this point mainly he canvassed against the impugned order passed by the Writ Court, seeking the indulgence of this Court.

8. Heard Mr.T.P.Nithyapriyan for Mr.F.Terry Chellaraja appearing for the first respondent / writ petitioner and Mr.D.Ravichandran, learned Special Government Pleader appearing for the second respondent.

9. We have gone through the contents of the letter dated 27.01.2017, where a foot-note has been given stating that this letter has been written because has has been embarrassed very much as the fellow academicians who had rendered examination duty have not been paid the remuneration and he is being called very often, being the Chairman of the Board of Examinations that the remuneration has not been paid by the College. Only at that juncture, this letter has been issued by him, where, we do not find any unparliamentary words except to make a strong request to the Bursar of the College, who according him, is otherwise incharge of the disbursement of this amount.



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10. The words "you have failed in such deplorable manner" which had occurred in the letter, according to the learned counsel for the appellant, is impulsive and therefore they came out with a memo dated 20.02.2017. In response to the said memo issued by the college management, the writ petitioner has sent a reply memo / letter to the college management dated 07.08.2017, wherein he has stated the following:

" I had written a letter dated 27.01.2017 as Chairman as Examiners, Department of English only for settling the remuneration which was unpaid for nearly four months to the Examiners and papers setters. I had written the above said letter to convey the sufferings of the Examiners to our esteemed institution only in good faith and there is no intention for me to denigrate the dignity of either the office of the Bursar or to our esteemed institution. If any wordings or sentence in my letter dated 27.01.2017 is interpreted as denigrating the dignity of the office of the Bursar of our institution, I am ready to withdraw the above wordings or sentence since my intention is not for that and no motive behind. Hence, I hereby confirm and agree that if any of the wordings or sentence in the above said letter dated 27.01.2017 is interpreted as disrespectful or denigrating the dignity of the office of Bursar of the College, I hereby withdraw the above said wordings or sentence.

Hence, this Hon'ble Enquiry Officer may be pleased to record the same and deal with the matter accordingly. The above said letter is without prejudice to my right of defense.

Dated at Chennai this 7th day of August, 2017."



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11. According to the learned counsel for the appellant, even though this letter has not been received by them, it is the definite case of the writ petitioner that he had already sent the letter and memo dated 07.08.2017, where he has already withdrawn the letter, where, if the college management feels that if any words or sentence is denigrating the office of the Bursar of the institution he has withdrawn those sentences also.

12. According to the learned counsel for the first respondent / writ petitioner, though such a letter dated 07.08.2017 has been given at the time of enquiry or before the enquiry, still enquiry was conducted and punishment was awarded.

13. However, this position has been denied by the learned counsel for the appellant saying that no such letter has come to the college management.

14. Be that as it may. Now an affidavit has been filed before this Court dated 15.07.2024, where also he has stated the following:

" 2) I state that during the pendency of the enquiry proceedings, I had written a letter dated 07.08.2017 wherein I had categorically stated that I had no intention to be disrespectful or to denigrate the office of the Bursar of the College. In the same letter,



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I had conveyed my bonafide intention and withdrew the wordings and sentences, which were alleged to denigrate the College.

d) In continuation to the above letter dated 07.08.2017, I submit that I do not have any intention or predetermined objective to be disrespectful to the authorities of the College. In future, my communications with the superiors of the College will be courteous and unfeigned."

15. Therefore, repeatedly it is the stand of the writ petitioner that even the sentences if any considered to denigrate the office of the Bursar of the College, those words and sentences also had been withdrawn which he had made clear in his letter dated 07.08.2017, which has now been reiterated in the present affidavit dated 15.07.2024.

16. Apart from this, we also, after having gone through the content of the letter dated 27.01.2017, do not find any unparliamentary words used and it also does not mean questioning the authority of the office of the Bursar of the institution. Be that as it may. Now, the curtain has been closed by sending a letter in August 2017 itself by withdrawing the sentences as well as the wordings which has now been reiterated by the learned counsel for the first respondent / writ petitioner in his affidavit dated 15.07.2024 before this Court.



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17. Therefore, we do not find any error in the approach of the learned Judge in setting aside the punishment awarded against the first respondent by giving a suggestion that a warning can be issued against him that hereafter if at all he wants to write any letter to espouse any cause of the teaching faculty or about any other things relating to the teaching faculty, that can be addressed to the Controller of Examinations in case of examination related issues and to the Principal and Secretary to the College in all other matters, where, very very polite words are to be used by the academicians, who are setting example for the students who are being taught by them. The Management of the institution also since being one of the well reputed institutions in the State of Tamil Nadu, hereafter shall ensure that this kind of delay is not occurred in disbursing the examination remuneration to the teaching faculty of both internal as well as external examiners.

18. Therefore, the order impugned does not require any interference at our hands. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.K.,J.) (C.S.N.,J.)
02.12.2024

NCS : Yes/No
Index : Yes/No
KST



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To

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Associate Professor
Department of English
Madras Christian College
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