



W.P. No.6245 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.6245 of 2015

and

M.P.No.2 of 2015

Sir Theagaraya College,
Rep. by its Secretary,
Old Washermenpet,
Chennai 600 021.

... Petitioner

Vs.

1.Director of Collegiate Education
Chennai 600 006.

2.N.Veerappan

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari calling for records pertaining to the proceedings in Na.Ka.No.21392/G1/2014 dated 03.03.2015 issued by the 1st respondent quash the same.

For Petitioner	:	Mr.B.Ravi
For R1	:	Mr.C.Jaya Prakash Government Advocate
For R2	:	Mr.V.Sivalingam & S.Thendral for M/s.C.S.Associates.



ORDER

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This writ petition has been filed challenging the proceedings in Na.Ka.No.21392/G1/2014 dated 03.03.2015 passed by the 1st respondent in an appeal filed by the 2nd respondent against the order passed by the petitioner herein in proceedings dated 12.05.2012 imposing the punishment of stoppage of three increments with cumulative effect.

2. The brief facts that are relevant for disposal of the writ petition are as under:

The 2nd respondent herein, while working as Associate Professor in Plant Biology & Bio Technology Department of the petitioner College, he was subjected to disciplinary proceedings by issuing charge memo dated 01.07.2010 containing four charges. Thereafter, an enquiry was conducted, and after furnishing the report of the enquiry officer to the petitioner, final order was passed by the petitioner herein, through proceedings dated 12.05.2012, imposing the punishment as noted therein. Aggrieved by the said order, the 2nd respondent filed an appeal before the 1st respondent and the said appeal was allowed by the 1st respondent by an order dated 03.03.2015.



Aggrieved by the said order, the petitioner approached this Court by filing the present writ petition.

3. Heard Mr.B.Ravi, learned counsel for the petitioner, Mr.C.Jayaprakash, learned Government Advocate for respondent No.1, and Mr.V.Sivalingam & S.Thendral for M/s.C.S.Associates, learned counsel for respondent No.2.

4. The learned counsel for the petitioner strenuously contended that the appellate authority i.e, respondent No.1 interfered with the order of punishment imposed by the petitioner herein on the ground that the respondent No.2 was not afforded any opportunity before issuing the charge memo dated 01.07.2010 and also on the ground that the complainant was examined as a witness and therefore, both the said grounds are absurd and cannot be a grounds for interfering with the order of punishment. He also further submitted that the respondent No.2 has already retired from service in the year 2014 after undergoing the of punishment of stoppage of three increments with cumulative effect and thereafter, he was also subjected to



criminal proceedings by the CBCID on the allegations of forgery, etc and the said proceedings are pending. He also further submitted that the petitioner herein has strictly followed entire procedure that is required to be followed in the disciplinary proceedings, and there have been no irregularities and it is only the respondent No.2, who avoided to participate in the departmental enquiry and charge memo was issued affording sufficient opportunity to defend himself in the disciplinary proceedings.

5. On the other hand, the learned Government Advocate appearing for respondent No.1 submitted that the respondent No.1 has rightly interfered with the punishment on the ground of not affording sufficient opportunity to the respondent No.2. The learned counsel appearing for respondent No.2 also supported the contentions of the learned counsel appearing for the respondent No.1, and also submitted that all the charges that are framed against the respondent No.2 are malafide and all the charges are general in nature, making omnibus allegations and thereby disabling the petitioner to defend himself.



6. This Court has carefully considered the submissions made on either side and also perused the entire material available on record.

7. No doubt, the reasons mentioned in the impugned order stating that the respondent No.2 herein was not afforded any opportunity before issuing the charge memo and the ground that the complainant was examined as a witness in the departmental proceedings are totally absurd. There is no obligation on the petitioner to afford an opportunity before issuing charge memo. Further, examining the complainant, as one of the witness, under no circumstances can be said to be an illegality in the matter of disciplinary proceedings. Therefore, both the reasons assigned in the impugned order are totally unsustainable.

8. But perusal of the impugned order dated 03.03.2015 discloses that it is not only on the above said two grounds the respondent No.1 interfered with the order of punishment. A perusal of paragraph 11 & 12 of the impugned order discloses that, inspite of the respondent No.2 intimating the enquiry officer about the necessity of he participating in an conference



from 21.09.2011 to 29.09.2011 and also a fact that the respondent No.2 was granted casual leave for the said period to enable him to appear for the conference at Ladakh, but the enquiry officer conducted enquiry during the said period resulting in submission of a report holding all the charges as proved against the respondent No.2 which is the basis for imposing the punishment in question against the respondent No.2. It is also on the ground of not affording sufficient opportunity and conducting enquiry in the absence of the respondent No.2, while the respondent No.2 was on casual leave granted by the Principal of the petitioner Institute, the respondent No.1 interfered with the order of punishment.

9. Though the respondent No.1 has given a detailed reasons in paragraphs 11 & 12 of the impugned order about conducting of enquiry in the absence of the petitioner, there is nothing in the affidavit filed in support of the writ petition to contradict the same and no material is placed before this Court. Though the ground is raised in Ground 9 contending that the petitioner was very much present in the college on 21.09.2011, there is no material that is placed before this Court in support of the said contention.



Therefore, this Court is not in a position to appreciate the said ground raised in Ground 9 of the writ petition.

10. Further, the reasons mentioned in Paragraph 12 of the impugned order to the effect of the respondent No.2 was granted casual leave by the Principal of the petitioner institute from 21.09.2011 to 29.09.2011 is not at all disputed by the petitioner either in the affidavit filed in support of the writ petition or during the course of arguments. In the absence of any dispute about the respondent No.2 granted casual leave during the period from 21.09.2011 to 29.09.2011 to enable him to participate in the conference at Ladakh and also in view of the admitted fact that the enquiry in question was conducted during that period, behind the back of the respondent No.2, this Court does not find any error or illegality in the impugned order passed by the respondent No.1 interfering with the punishment imposed on the respondent No.2.

11. Be that as it may, this Court also has carefully gone through all the four charges that are famed against the petitioner. The charge No.1, is



only about the respondent No.2 not appearing before the Committee said to have been appointed by the Madras University in connection with verification of the certificate of the petitioner. Whereas the charge Nos.2, 3 & 4 are pertaining to the behaviour of the respondent No.2 in making sarcastic comments about the teachers working in the College, and the habit of the respondent No.2, in entering into various class rooms during the class hours and about taking up quarrels and fighting with the other members of coordinate department. All the said charges are as vague as they can be. No dates or the timing when the respondent No.2 has committed said misconduct are stated. It is stated to be the habit of the respondent No.2 but no particulars are furnished in the charges. In the absence of any particulars, it is possible for the respondent No.2 to answer the said charges.

12. Thus, charges 2,3 & 4 are vague and charge No.1 is also trivial in nature and therefore, the punishment that was imposed by the petitioner herein on the respondent No.2 of stoppage of three increments with cumulative effect which will have the effect on the terminal benefits cannot be said to be proportionate. Further, from the perusal of the impugned order it



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is also noticed that the respondent No.1 has also come to the conclusion that the impugned charges in question framed against the respondent No.2 for the malafide reasons.

13. In the circumstances, this Court is of the considered view, that the respondent No.1 has rightly interfered with the punishment imposed on the respondent No.2 and passed the impugned order. Therefore, this Court does not see any error or illegality in the impugned order. The fact that the respondent No.2 has already retired from service as early as in the year 2014 and therefore, this Court is also not inclined to remit the matter back to the petitioner herein for redoing the entire exercise.

14. Accordingly, this writ petition is dismissed. The connected miscellaneous petitions, if any, shall stand closed. No costs.

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Index : Yes/No
Speaking Order : Yes/No
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MUMMINENI SUDHEER KUMAR,J.

dpa

To:

1.The Director of Collegiate Education
Chennai 600 006.

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