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W.P.No.12477 of 20--

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.08.2024

PRONOUNCED ON : 30.08.2024

CORAM

THE HON'BLE MR. JUSTICE **BATTU DEVANAND**

W.P.No.12477 of 2018
and WMP.Nos.14618 of 2018 and 29207 of 2019

Dr.V.Barla

... Petitioner

Vs.

1. The Director of Collegiate Education,
College Road,
Nungambakkam,
Chennai.
2. The Joint Director of Collegiate Education,
Chennai Region,
Institute of Advance Study in Education Campus,
Saidapet, Chennai 600 015.
3. Madras Christian College,
Governing Body,
Rep. by its Secretary,
Tambaram, Chennai 600 059.
4. The Principal,
Madras Christian College,
Tambaram, Chennai 600 059.

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned letter dated 23.04.2018 issued by the fourth



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respondent and quash the same and consequently direct the third and fourth respondents to reinstate the petitioner in service with all consequential benefits.

For Petitioner : Mr.A.Swaminathan
For Respondents
for RR1 & 2 : Mr.R.Neethi Perumal, G.A.
for RR3 & 4 : Mr.P.Godson Swaminathan,
for M/s.Isaac Chambers

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate Appearing for the respondents 1 and 2 and the learned counsel appearing for the respondents 3 and 4 and perused the materials available on record.

2. The case of the petitioner is that he is having rich experience and entered into the Academia with a commitment to groom management professionals. He applied for the post of Director of the MCC Boyd Business School, Madras Christian College, i.e., the third respondent herein and he was elected through the interview held on 23.01.2016. The fourth respondent issued a letter on 14.04.2016 informing the appointment with effect from 1st June 2016 with the consolidated pay of sum of Rs.1,25,000/-

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per month. Further the residential accommodation on the campus and an official car were provided as perquisites with other common benefits applicable to the staff at the College.

3. In the year 2018, the All India Council for Technical Education rejected the third respondent's application to introduce new courses i.e., PGDM / MBA due to the reason that the buildings were constructed without CMDA approval, besides lack of many other departmental permissions from the Government of Tamil Nadu. In these circumstances, the petitioner was issued a letter dated 23.04.2018 by the fourth respondent informing that the petitioner service as Director of MCC Boyd Business School has been terminated with effect from 23.04.2018 along with cheque No.264042 dated 24.04.2018 for Rs.1,25,000/- drawn on Indian Overseas Bank, MCC Campus Branch, Tambaram East, Chennai. Further the petitioner was requested to handover the official residence and the official car on or before 31.05.2018 to the Estate Manager of the College. Aggrieved by the same, the present Writ Petition has been filed.

4. The learned counsel for the petitioner submits that the impugned termination letter dated 23.04.2018 was issued without any show cause



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notice and without affording any opportunity. He further submits that the fourth respondent is not the competent to issue termination letter without instituting any proceedings or conducting any enquiry and hence, he sought to set aside the impugned order and allow the Writ Petition.

5. A counter affidavit has been filed on behalf of the respondents 3 and 4. In the counter affidavit it is admitted that the petitioner was appointed as the Director of MCC Boyd Business School on contractual basis vide appointment order dated 14.04.2016. As per the appointment order, the petitioner was paid a consolidated salary of Rs.1,25,000/- per month. He was given a residential accommodation in MCC Campus and an official car was also provided. In the appointment order it was clearly mentioned that his appointment is terminable by one month prior notice or one month pay in lieu thereof.

6. It is further stated in the counter that as the petitioner was no longer required, the College thought it fit to discontinue his service. Therefore, the College vide impugned letter dated 23.04.2018 terminated his service with effect from 24.04.2018. As per the letter of appointment, he was paid one



month salary of Rs.1,25,000/- in lieu of month notice period. Accordingly, he was discharged from the service and he is no longer in service since 24.04.2018.

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7. The learned counsel appearing for the respondents 3 and 4 submits that the writ petition is not maintainable as the appointment of the petitioner was on contractual basis in a yet to be approved standalone self financed Institution. The nature of employment falls within the realm of contract. The petitioner cannot legitimately ask for specific performance of the contract. He contends that contract of personal service is not specifically enforceable and as such, the writ petition is not maintainable.

8. He further contends that Section 19(1) of the Tamil Nadu Private College (Regulation) Act is not applicable to the petitioner's case. He also pointed out that the order of termination is not a stigmatic one as the impugned order is not tainted with any malafides and therefore, no enquiry or show cause notice is necessitated before issuing the impugned order.

9. In support of this contention, the learned counsel for the



respondents placed a reliance on the order of this Court in W.P.No.12391 of 2012 dated 17.09.2012. The relevant paragraph of the said order is extracted hereunder:

“4. In paragraph No.12 of the counter, it is stated that the petitioner was appointed on contractual basis as Lecturer in the year 2007 and later, it was extended by two years from 16.06.2008 by order dated 16.06.2008. The appointment on contractual basis was confirmed by order dated 16.06.2010. It is however stated in the counter that the petitioner's service was found no longer required, the College terminated the contract of the petitioner and discontinued him from service as per the impugned order dated 12.04.2012. It is also stated that since the employment of the petitioner was on contractual basis in a self financing college, the writ petition is not maintainable and the nature of employment falls with in the contractual basis.

5. In my considered opinion, a contract of the personal service cannot be enforced in a Writ proceeding. From the record, it is clear that the petitioner was only a contractual employee and it is based on a personal contract of service. The same cannot be enforced in a writ proceeding. Therefore, the relief sought for in this writ petition cannot be granted to the petitioner. It is open to the petitioner to work out his remedy in the manner known to law. The writ petition is dismissed. No costs. The connected miscellaneous petition is also dismissed.”



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10. In the considered opinion of this Court, the above said order is squarely applicable to the facts of the present case. Admittedly, the petitioner herein was also appointed on contractual basis on consolidated payment of Rs.1,25,000/- per month. In the appointment order it is clearly mentioned that the appointment can be terminated by either with one month prior notice or one month pay in lieu thereof.

11. On perusal of the order impugned in this Writ Petition, it appears that the petitioner's service was terminated with effect from 24th April 2018 and as per the terms of the appointment order dated 14th April 2016, the payment of Rs.1,25,000/- in lieu of one month notice period was paid to the petitioner. In the counter affidavit filed by the respondents 3 and 4, it is stated that the petitioner's service was no longer required. Accordingly, the petitioner service was terminated by the impugned order.

12. Considering all the facts and circumstances of the case and by following the order dated 17.09.2012 in WP.No.12391 of 2012, this Court is left with no other option except to held that since the employment of the



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petitioner was on contractual basis in a self financed College, the Writ
Petition is not maintainable, and the petitioner is not entitled for the relief
sought in this Writ Petition. However, it is open to the petitioner to workout
his remedy in the manner known to law.

13. For the above stated reasons, this Writ Petition is dismissed.

No costs.

Consequently, connected miscellaneous petitions are closed.

30.08.2024

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

pvs



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To

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W.P.No.12477 of 2018

BATTU DEVANAND.J.,
pvs

Pre-delivery order in

W.P.No.12477 of 2018

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