



Writ Petition No.21051 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

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THE HONOURABLE MR. JUSTICE BATTU DEVANAND

Writ Petition No.21051 of 2019
& WMP No.20234 of 2019

Uma Raghu

..Petitioner

vs.

1.The Secretary,
MAC(Educational Foundation),
Managing M.A.Chidambaram College of Nursing,
VHS Campus,
T.T.T.I Post,
Adyar, Chennai -600 113.

2.The Principal,
M.A.Chidambaram College of Nursing,
VHS Campus,
T.T.T.I Post,
Adyar, Chennai -600 113.

3.The Registrar,
Tamilnadu State Nurses and Midwives Council,
Jayaprakash Narayan Maligai,
Old no.140, New no.56,
Santhome High Road,
Mylapore, Chennai-4

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India,



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praying to issue a Writ of Certiorari, to call for the records relating to the impugned termination order dated 16.05.2019 of the first respondent, quash the same.

For Petitioner : Mr.S.Haja Mohideen Gisthi
For Respondents : M/s.A.L.Gandhimathi, Sr.Advocate
for Ms.S.A.Kanmani for R1 & 2

ORDER

This Writ Petition has been filed seeking for issuance of a Certiorari, to call for the records relating to the impugned termination order dated 16.05.2019 of the first respondent and quash the same.

2.Heard the learned counsel appearing for the petitioner and the learned Senior counsel appearing for the respondents 1 & 2 and I have carefully perused the entire material available on record.

3.The case of the petitioner is that the petitioner was appointed as Assistant Lecturer in the first respondent College on 16.07.1996 and she joined in the said post on 13.08.1996. Her probation was confirmed on 21.08.1997. She was sponsored by the Management for higher study viz.,



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M.Sc.,(Nursing) for a period of two years with a condition that she should serve the College for a period of 5 years after completing M.Sc. (Nursing).

On 29.06.2000, the petitioner was appointed as Lecturer. Later, the post of Lecturer was upgraded as Assistant Professor. The petitioner was promoted as Associate Professor/Reader with effect from 01.04.2008. Thereafter, she was promoted as Professor with effect from 01.04.2010 vide proceedings dated 27.04.2010. She has been discharging her duties for all these years and met the standards of work in all aspects without any adverse remarks. The petitioner was deputed for inspection, clinical supervision and also examinership, question paper setter, evaluator in the inside and outside of Deemed University also. She discharged academic responsibilities entrusted to her. While that being so, she was orally directed by the second respondent in the month of February, 2019, to submit her resignation letter offering to quit the post of Professor in the said College. The petitioner rejected the same. Thereafter, she was being continuously threatened by the second respondent to submit her resignation letter. Hence, the petitioner submitted a memorandum to the Minister for Health and Family Welfare, Government of Tamilnadu on 06.03.2019, seeking to protect her for remaining six years of service in the College.



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4.The Grievances Redressal Cell of the Hon'ble Chief Minister of Tamilnadu forwarded her representation to the Director of Medical Education. But the petitioner did not receive any response till date from the concerned authority. Thereafter, the petitioner met with an accident on 13.05.2019 and sought for sanction of two weeks medical leave for treatment. But instead of allowing her medical leave request, the second respondent seems to have instigated the management to terminate her services illegally. The petitioner received an e-mail on 30.05.2019, alleging that she refused to receive the termination order dated 16.05.2019 from the second respondent. It was also stated that the termination order dated 16.05.2019 sent by post was returned by the postal authorities. But she never received any intimation from the concerned Postman of the Postal Department about that fact. After receiving e-mail only, the petitioner came to know about the termination order dated 16.05.2019. Aggrieved by the termination order dated 16.05.2019, the petitioner has constrained to file the present Writ Petition.

5.The learned counsel for the petitioner would submit that the action



of the respondents 1 & 2, in terminating the services of the petitioner as Professor of the College is clearly illegal, arbitrary and a colourable exercise of power. The learned counsel contends that the respondents 1 & 2 cannot terminate the petitioner without any enquiry. Even assuming that the petitioner's performance is not up to the expectation of the respondents, the termination simplicitor following the hire and fire policy is clearly vitiated. The learned counsel further contends that impugned termination order itself is an afterthought to victimize the petitioner and send her out of the College, so that a person of their choice can be appointed as Professor in the petitioner's place. Thus, the learned counsel contends that the order impugned in this Writ Petition is liable to be quashed by allowing this Writ Petition.

6. A detailed counter affidavit has been filed on behalf of the respondents 1 & 2.

7. Based on the averments of the counter affidavit, the learned Senior counsel for the respondents 1 & 2 would submit that during the course of petitioner's employment in various posts, it was observed that being a



Professor she was not imparting proper training to the students and not extending the required guidance to the other teaching faculty as well. On assessing her 3 years performance as a Professor, it was found that her performance was below and several attempts to encourage her to improve her performance also went in vain. Further, due to her negligence in her duties, on several times, there have been occasions where warnings have been issued to the petitioner.

8.The learned counsel for the respondents 1 & 2 further contends that the allegations by the petitioner that she had met the standards of work in all these years in all aspects without any adverse comments relating to negligence or performance of her duties is incorrect. The learned counsel further submits that the allegation that the petitioner was orally directed by the second respondent during February 2019, to submit resignation is incorrect and false. It is further submitted that in view of the poor performance of the petitioner and due to her repeated warnings, the Institution had no other option but to terminate her from services as per the conditions of her appointment order with three months notice pay. The order of termination dated 16.05.2019 itself clearly explicit that the petitioner was



not imparting proper training to the students and not extending the required guidelines over teaching faculty being a Professor. As there was no improvement, the respondent Institution does not have any other option except to terminate the services of the petitioner and in terms of her appointment, she is entitled to 3 months notice or 3 months notice pay in lieu therein. As such, the petitioner was terminated by 3 months pay under the impugned order. As such, the learned counsel for the respondents 1 & 3 would submit that the impugned order dated 16.05.2019 is not arbitrary, illegal or unconstitutional and sought to dismiss the Writ Petition.

9. On careful perusal of the order dated 16.05.2019, which is impugned in this Writ Petition, it is established that the said order was issued by the first respondent without following the due procedure for termination of a Professor and the said order is passed violating the principles of natural justice. If the Management intends to terminate the services of the petitioner on any ground, they have to conduct an enquiry. If it is found in the enquiry that the petitioner is at fault, then the Management has to frame the charges and ought to have called for explanation from the petitioner. After considering the explanation of the petitioner only, the first



respondent can pass any order against the petitioner. But in the present case, in the impugned order, there was no mention about conducting the enquiry against the allegations raised by the Management against the petitioner. Admittedly, no show cause notice was issued calling for explanation for the allegations/charges made against the petitioner by the management. It is also an admitted fact that no opportunity of personal hearing has been accorded to the petitioner.

10. It is the settled law that any order passed without providing an opportunity to affected person, it is against to the principles of natural justice. In the present case, no procedure was followed, while issuing the termination order dated 16.05.2019 and no principles of natural justice has been followed.

11. Hence, in the considered opinion of this Court, the order dated 16.05.2019 issued by the first respondent, which is impugned in this Writ Petition cannot sustain in the eye of law and accordingly, it has to be declared as illegal, arbitrary and unjust and in violation of principles of natural justice.



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12. Accordingly, for the reasons stated above, the Writ Petition is allowed with the following directions:

(i)the impugned termination order dated 16.05.2019 of the first respondent is hereby quashed.

(ii)the first respondent is directed to reinstate the petitioner into service forthwith, with all consequential benefits.

No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Speaking order: Yes/No
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BATTU DEVANAND, J

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To

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