



W.P.No.7997 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2024

CORAM

THE HONOURABLE MRS.JUSTICE N. MALA

W.P.No. 7997 of 2017

and

W.M.P.Nos. 8741 and 8742 of 2017

S.Ansar Basha
S/o.Shukoor

... Petitioner

versus

1. The Secretary & Correspondent,
The Quaide Milleth College (M),
Medavakkam, Chennai – 600 100.
2. The Regional Joint Director of Collegiate Education,
Chennai Region,
Saidapet, Chennai – 600 015.
3. Mr.Prof.Fazal Abbas,
The Enquiry Officer,
Old No.20, New No.33, Arjuman Street,
Fort Vellore – 632 004.

.....Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the impugned order (a) No.RC.No.Qmc/Charge Memo/877/2013, dated 04.06.2013 (b) enquiry report dated 12.01.2017, (c) impugned proceeding No.Rc.No.QMC/DP-

Pg.Nos.1/11



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SAB/1826 dated 08.03.2017, quash the above (a), (b) and (c) proceedings as null and void and consequently directing the 1st and 2nd respondents to pay all the retirement monetary benefits like pension, gratuity etc.,

For Petitioner : Mr.S.Sathyaraj

For Respondents : Mr.N.A.Nissar Ahmed for R1

Mr.C.Jayaprakash
Government Advocate for R2

No appearance for R3

ORDER

This Writ Petition has been filed to call for the impugned order (a) No.RC.No.Qmc/Charge Memo/877/2013, dated 04.06.2013 (b) enquiry report dated 12.01.2017, (c) impugned proceeding No.Rc.No.QMC/DP-SAB/1826 dated 08.03.2017, quash the above (a), (b) and (c) proceedings as null and void and consequently direct the 1st and 2nd respondents to pay all the retirement monetary benefits like pension, gratuity etc.

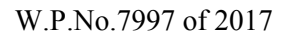
2. The petitioner joined the duty on 08.09.1980, in the first respondent College and served upto 30.06.2013. At the fag end of his service, the first respondent issued a charge memo on 04.06.2013, containing six charges.



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The petitioner submitted his reply on 08.06.2013, to the charge memo stating that the charge memo lacked details and further requested the respondents to furnish the necessary documents. Since the documents requested by the petitioner were not furnished, he filed a writ petition in W.P.No.16592 of 2013 for Writ of Certiorari to quash the charge memo dated 04.06.2013.

3. In the said writ petition, on the representation of the learned counsel for the petitioner that he would be satisfied if details requested as per his letter dated 08.06.2013, were furnished the said writ petition was disposed of on 20.06.2013, with a direction to the first respondent to provide the details as sought by the petitioner, within a period of two weeks, and thereafter on receipt of the same, the petitioner was directed to submit his explanation within a period of one week. Since the requested details and documents were not furnished, the petitioner filed a contempt petition in Contempt Petition No.2255 of 2013 and during the pendency of the contempt proceedings the enquiry officer was appointed. The enquiry officer was changed twice and thereafter, the third enquiry officer was appointed and after notice to the petitioner, the enquiry was continued. However, the



4. As the petitioner retired from service on 30.06.2013, and he was not the pensionary benefits, he filed a writ petition in W.P.No.14313 of for disbursement of his retirement benefits including pension, gratuity with interest within a reasonable time. Based on the orders of the Court the aforesaid writ petition, the petitioner was sanctioned provisional on during October, 2016. Thereafter based on the enquiry report, the respondent passed impugned order of punishment dismissing the petitioner from service. The petitioner aggrieved by the dismissal order, the enquiry report and the charge memo has filed the present writ petition.



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5. The first respondent filed a detailed counter and submitted that the petitioner vide reply dated 08.06.2013, sought for certain documents and details and the same were furnished. As the order in W.P.No.16592 of 2013 dated 20.06.2013, was complied, the contempt petition in Cont.P.No.2255 of 2013 was closed recording the submission of the learned counsel for the petitioner that the documents sought for by the petitioner were received. This Court however granted liberty to the petitioner to submit his reply within a period of two weeks from the date of the order. The first respondent further submitted that though the petitioner was furnished with the documents sought for, he failed to participate in the enquiry and so, the enquiry officer submitted the ex-parte report holding that the six charges were proved. The first respondent further submitted that ample opportunity was given to the petitioner, but he failed to participate in the enquiry in the ruse of non-furnishing of the documents, though the same were already furnished to him. The respondents therefore prayed to dismiss the writ petition.

6. The learned counsel for the petitioner submitted that as the list of documents and list of witnesses were not provided to the petitioner he was



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not in a position to give a fitting reply to the show cause notice and further prayed that the petitioner should be given an opportunity to contest the case on merits. The learned counsel further submitted that the list of documents and witnesses have been furnished in the typed set of papers filed by the respondents and therefore, the petitioner may be permitted to give a fresh reply to the show cause notice. The learned counsel further submitted that the impugned order may be set aside and the matter may be remanded back to the enquiry officer for fresh enquiry.

7. Per contra, the learned counsel for the first respondent submitted that the petitioner inspite of notice and several opportunities did not participate in the enquiry proceedings and therefore, the petitioner should not be given further opportunity.

8. I have heard the learned counsel for the petitioner and the learned counsel for the respondents 1 and 2 and perused the materials available on record.

9. It is seen that the petitioner in his reply dated 08.06.2013, requested the respondents to furnish necessary documents relevant to the charges but



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the same were not furnished. The petitioner therefore, approached this Court by way of writ petition and contempt petition and thereafter only the documents were furnished to the petitioner. According to the petitioner, even though in the contempt proceedings, it was recorded that the list of documents and list of witnesses were furnished to the petitioner, however, the entire documents were not furnished.

10. The learned counsel for the petitioner therefore submitted that the matter may be remanded for fresh enquiry and liberty may be given to the petitioner to submit his detailed reply on the basis of the documents now furnished by the respondents in the typed set of papers.

11. The learned counsel for the first respondent reiterated the submissions made in the counter and submitted that there were no merits in the writ petition and further the petitioner's request for fresh enquiry was unfair and unjust.

12. The petitioner consistent stand has been that the documents were not furnished to him. It is seen that the petitioner had to approach this Court by way of writ petition and contempt petition and thereafter only the list of



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documents were furnished to him. The learned counsel for the petitioner submits that even though list of documents and list of witnesses were furnished, the actual documents were not furnished to the petitioner. This factual aspect is disputed by the learned counsel for the first respondent.

13. As the impugned order is based on an ex-parte enquiry report, without entering into the factual dispute and without going into the merits of the case, I am of the view that an opportunity should be given to the petitioner to participate in the enquiry by giving detailed reply to the charge memo on the basis of the documents annexed in the typed set of papers and additional typed set of papers.

14. The impugned order is therefore set aside and the matter is remanded to the enquiry officer for fresh consideration. It is made clear that the enquiry shall proceed from the stage of reply and evidence. The petitioner shall submit his detailed reply to the charge memo within a period of two weeks from the date receipt of a copy of this order and thereafter, the enquiry proceedings shall be conducted by giving opportunity of personal hearing to the petitioner. The final order shall be passed within 8 weeks of



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the receipt of a copy of this order.

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15. The learned counsel for the petitioner undertakes that the petitioner will co-operate with the enquiry proceedings and the said undertaking is recorded.

16. With the above observations and directions, this Writ petition is allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

29.10.2024

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To

1. The Secretary & Correspondent,
The Quaide Milleth College (M),
Medavakkam, Chennai – 600 100.
2. The Regional Joint Director of Collegiate Education,
Chennai Region,
Saidapet, Chennai – 600 015.



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N. MALA, J.

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