



WP(MD) No.1041 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.03.2024

CORAM

THE HON'BLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P(MD)No.1041 of 2021
and W.M.P.(MD)No.903 of 2021

Dr.J.John Peter Paul

... Petitioner

Vs.

1.The Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli – 627 003.

2.The Secretary,
St. Xavier's College (Autonomous),
Palayamkottai – 627 002,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, calling for the records relating to the impugned order issued by the 2nd respondent herein in proceedings No.Nil dated 15.01.2021, quash the same.

For Petitioner : Mr.E.V.N.Siva

For Respondents : Mr.V.Om.Prakash
Govt Advocate for R1
Mr.G.Prabhu Rajadurai for R2



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ORDER

This Writ Petition has been filed seeking a Writ of Certiorari to call for the records relating to the impugned order vide No.Nil dated 15.01.2021 and quash the same.

2. The brief facts that are relevant for disposal of this Writ petition are as under:

The petitioner herein, who is working as Assistant Professor in the second respondent College, was subjected to disciplinary proceedings on the ground that he has circulated a bit notice in the staff room of the said college containing four demands. The said four demands reads as under:





3. When the petitioner was called for enquiry on 18.12.2020 about the distribution of the above bit notices on 16.12.2020, the petitioner accepted about the fact of distribution of notices by him in the staff room. In view of the same, the second respondent called for explanation from the petitioner by issuing a notice dated 18.12.2020, to say as to with whose permission the petitioner distributed the notices to the staff and also to state the purpose of distributing the notice and wearing it as badge by the MUTA staff in the campus and required the petitioner to submit his explanation by 12.30 p.m. on the same day. The petitioner submitted his explanation by stating that the issue raised in the letter dated 18.12.2020, is relating to MUTA Association activity and requested to drop the further proceedings. Thereafter, the respondent No.2 once again issued a charge memo dated 21.12.2020, containing the following charges:

“1.With whose permission did you distribute Bit Notices to some staff of the college on 16.12.2020?

2.You have done this to instigate the staff of the college against the Management and disturb peace and harmony in the campus.

3.This is a deliberate attempt to vitiate the academic atmosphere in the campus.”



and required the petitioner to submit his explanation on or before 1.00 p.m. on the next day. The petitioner once again requested to drop the proceedings, as the same pertains to MUTA Association activity. The second respondent through letter dated 23.12.2020 informed the petitioner that management is not satisfied with the reply dated 22.12.2020 submitted by the petitioner and decided to proceed further in the matter and required the petitioner to submit his reply if any to the charge memo on or before 28.12.2020. Thereafter, the petitioner submitted his explanation on 28.12.2020, stating that issuance of printed badges highlighting the demands pertaining to the implementation of the Government Order and other issues to the members of MUTA was part of "MUTA Badge wearing programme" and the same should not be construed as an attempt to vitiate the academic atmosphere in the campus and also contended that the same was done in a democratic form and the same is guaranteed under the constitution. Thus, he requested for dropping of the matter further.

4. Thereafter, the respondent No.2 issued a show cause notice dated 07.01.2021 proposing to impose a major punishment of stoppage of two increment cuts with cumulative effect. Thereafter, the petitioner submitted



his explanation on 11.01.2021, requesting for conducting a detailed enquiry in the matter while denying the charges. However, the respondent No.2 proceeded further without conducting any enquiry and passed the impugned order dated 15.01.2021, imposing the punishment of two increments cut with cumulative effect from 18.01.2021. Aggrieved by the said order, the petitioner is before this Court mainly contending that the said order was passed in violation of the principles of natural justice and also on the ground that the alleged act of misconduct by the petitioner is, even if taken as true, would not amount to misconduct.

5. The learned counsel for respondent No.2 contended that the petitioner has admitted the charge of distribution of bit notices and he is not expected to undertake any MUTA Association activities in the staff room and therefore, the action of the petitioner in distributing the bit notices in the staff room amounts to misconduct. It is also further contended that there is no necessity of conducting detailed enquiry as the petitioner himself has admitted the charge. He has also placed reliance on a decision of the Hon'ble Supreme Court in the case of ***Bank of India Vs. S.U.Motors Private Ltd.***, reported in ***(1990) 4 SCC 744***.



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

7. The alleged misconduct of the petitioner as alleged by the respondent No.2 about the distribution of bit notices was in the staff room, thereby instigating the staff of the college against the Management and disturbing peace and harmony in the campus and deliberately attempting to vitiate the academic atmosphere in the campus, on the face of it, is absurd. Admittedly, the content of the bit notices, said to have been distributed by the petitioner in the staff room of the respondent No.2 college, does not contain any allegations or derogative statement that would in any manner damage the atmosphere or spoil the image of the second respondent college. The said bit notice only demands for implementation of UGC guidelines, to constitute a committee in terms of UGC guidelines, to negotiate with the association members on certain issues and to drop certain proceedings that are initiated against the members of the MUTA association.

8. From the above, it is evident that there is nothing to suggest that the same would amount to the allegation of charge that is levelled against



the petitioner herein as noted above. In the considered view of this Court even assuming that the petitioner has made all the four demands as in the bit notices, the same under no circumstances can be treated as misconduct. The manner in which the respondent No.2 has acted against the petitioner on day to day basis would only suggest that the respondent No.2 with an intention to suppress the voice of the staff at the threshold itself. Such an attitude on the part of the second respondent Management cannot be accepted, as such an activity would amount to curtailing the fundamental right guaranteed under Articles 14, 19 and 21 of the Constitution of India.

9. The decision of the Hon'ble Supreme Court relied upon by the learned counsel for the respondent No.2 in the case of ***Bank of India Vs. S.U.Motors Private Ltd.***, reported in ***(1990) 4 SCC 744*** is concerned, there is no quarrel on the ratio laid down in the said decision. No doubt when a misconduct is admitted by the delinquent, there is no necessity of conducting detailed enquiry by following the principles of natural justice. But the case on hand is totally in a different fact situation. The only allegation made against the petitioner herein is distributing the bit notices in the staff room. Even the same is taken as true, the same, in the considered



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view of this Court, does not amount to misconduct at all. Further in the impugned order passed by the respondent No.2 herein, nothing to suggest as to how the demands that are made in the bit notice in question would amount to misconduct or as to how the same would instigate the staff members against the management or spoil the atmosphere in the respondent No.2 college. In the absence of any material nor any satisfaction that is recorded by the respondent No.2 to satisfy itself that the alleged act of misconduct of the petitioner in distributing the bit notices in the staff room would amount to misconduct as alleged, the respondent No.2 imposing major punishment of two increments cut with cumulative effect cannot be sustained under law.

10. Accordingly, the impugned proceedings dated 15.01.2021 issued by the respondent No.2 is liable to be set aside and the same is accordingly set aside. In the normal course, the matter would stand remand back to the respondent No.2 for considering the matter afresh. But in the instant case, this Court has set aside the impugned order not only on the ground of violation of principles of natural justice but also on the ground that the alleged act of the petitioner in distributing the bit notices in the staff room,



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under no circumstances be treated as misconduct, this Court is not inclined to remand the matter to the second respondent. Accordingly, the disciplinary proceedings initiated against the petitioner shall stand quashed.

11. Accordingly, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

12.03.2024

NCC : Yes/No

Index : Yes/No

vsm

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