



W.P(MD)No.7433 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 14.10.2024

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.7433 of 2023

J.Amalanathan

... Petitioner

Vs.

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

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

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the second respondent herein in Ref.No.SXC/Prin/Eco.JA / Final Order / 1 / 2022, dated 30.07.2022, quash the same and further direct the first respondent herein to disburse the salary payable to the petitioner from 11.04.2022 to 06.06.2022.

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

For Respondents : no appearance



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ORDER

The instant writ petition has been filed by an Associate Professor working in the respondent college challenging the order of suspension which was imposed as punishment.

2. The writ petitioner was issued with a charge memo on 22.03.2022 and he was placed under suspension on 11.04.2022. Based upon the explanation submitted by the writ petitioner, an enquiry officer was appointed and report was submitted on 04.07.2022. The petitioner was issued with second show cause notice enclosing the enquiry report on 12.07.2022. The petitioner has submitted his explanation on 20.07.2022. After considering the explanation submitted by the writ petitioner herein, the Board of Management of the respondent college passed a resolution on 16.07.2022 treating the period of suspension ie., the period between 11.04.2022 to 06.06.2022 as punishment period and final order was passed on 30.07.2022. The said final order is under challenge in the present writ petition.

3. According to the learned counsel for the petitioner, the petitioner has attained superannuation on 31.07.2022 and he has been permitted to retire and terminal benefits have been disbursed. Therefore, the petitioner is not seriously



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raising any objection with regard to the treating of the suspension period as punishment. However, his grievance is that there is a direction to the writ petitioner to refund the subsistence allowance received by him during the period of suspension.

4. The learned counsel appearing for the petitioner relied upon the Rule 13 of Tamil Nadu Private Colleges (Regulation) Rules, 1976 and contended that in case, if the management arrives at a finding that suspension is found justified, the management is entitled to receive aid for the payment of subsistence allowance. In the present case, the management having imposed suspension as punishment have been justified the period of suspension. In such circumstances, the management will be entitled to receive the subsistence allowance as grant from the Government. There is no necessity for recovering the subsistence allowance paid to the petitioner during the period of suspension.

5. Though the respondents were served and their names are printed in the cause list, they have not chosen to appear either in person or through counsel. Hence, this Court proceeds to pass orders on merits based on the submission made on the side of the learned counsel appearing for the petitioner.



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6. As rightly contended by the learned counsel appearing for the petitioner, as per Rule 13(2)(a) of the Tamil Nadu Private Colleges (Regulation) Rules, 1976, in case, if the management finds that suspension is justified, they are eligible to get reimbursement of the subsistence allowance paid by them from the Government. In the present case, as per the impugned order dated 30.07.2022, the management is justified the suspension by treating the suspension period as punishment. In such circumstances, the management is always entitled to get reimbursement of the subsistence allowance from the Government. In such circumstances, it would not be fair on the part of the management to direct the writ petitioner herein to refund the subsistence allowance which was already paid to him.

7. In view of the aforesaid deliberations, the order impugned in the writ petition is set aside only to the extent where the writ petitioner has been directed to refund the subsistence allowance. In all other respects, the order impugned in the writ petition is sustained. In view of the said observations, the Writ Petition stands partly allowed to the extent as stated above. No costs.

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Index : Yes / No
Internet : Yes/ No
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