



W.P.(MD).Nos.27772 of 2023 and 3732 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)Nos.27772 of 2023 and 3732 of 2024
and

W.M.P(MD) Nos.23879, 23880 of 2023, 3644 and 3645 of 2024

W.P(MD) No.27772 of 2023:

C.Hentry

Vs.

... Petitioner

1. The Government of Tamil Nadu,
Represented by its Principal Secretary,
Higher Education Department,
Fort St.George,
Chennai – 600 009.
2. The Director of Collegiate Education,
Directorate of Collegiate Education,
Institute of Advance Study
in Education Campus,
577, Anna Salai,
Saidapet, Chennai – 600 015.
3. The Joint Director of Collegiate Education,
Joint Directorate of Collegiate Education,
Tirunelveli Region,
Tirunelveli.



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4. M/s. St.Jude's College,
Represented by its Administrator,
Thoothoor,
Kanyakumari District – 629 176.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the third respondent in his proceedings Na.Ka.No.13458/Vu1/2023, dated 13.09.2023 and quash the same as illegal, arbitrary and consequently directing the third respondent to make payment of arrears of salary to the petitioner for the period between 24.10.2020 to 31.10.2021 with interest at the rate of 12% per annum within a time frame fixed by this Court.

For Petitioner : Mr.D.Kirubakaran

For R1 to R3 : Mr.J.Ashok
Additional Government Pleader

For R4 : Mr.C.Jeganathan

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2. The Director of Collegiate Education,
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4. M/s. St.Jude's College,
Represented by its Administrator,
Thoothoor,
Kanyakumari District – 629 176.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the third respondent in his proceedings A.Thi.Mu.No.12666/Vu1/2023 dated 16.11.2023 and the consequential impugned order passed by the third respondent in his proceedings A.Thi.Mu.No.13887/Vu1/2023, dated 05.12.2023 and quash the same as illegal, arbitrary and consequently directing the second respondent to treat the petitioner's suspension period as period of continuous service and consequently directing the 3rd respondent to sanction the petitioner's pension proposal dated 30.10.2023 within a time frame as fixed by this Court.

For Petitioner : Mr.D.Kirubakaran



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For R1 to R3 : Mr.J.Ashok
Additional Government Pleader

For R4 : No appearance

COMMON ORDER

W.P(MD) No.27772 of 2023 has been filed by a Principal of Aided College, seeking to quash the order dated 13.09.2023, wherein his request for disbursement of arrears of salary for the period between 01.11.2020 and 31.10.2021, has been rejected.

2. The petitioner herein was placed under suspension by the then Management by way of proceedings dated 24.10.2020. The suspension order was challenged by the writ petitioner by filing W.P(MD) No.17252 of 2020. This Court, by an order, dated 30.11.2020 has granted interim orders and it was extended on subsequent days.

3. In the meantime, the College Administration was handed over to a retired Judge of this Court, by appointing him as an Administrator, by an order dated 31.01.2022 in C.R.P(MD) Nos.1951 and 1962 of 2021. When the



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above said writ petition challenging the order of suspension came up for final hearing, this Court, by an order dated 27.04.2022 had instructed the writ petitioner to approach the Administrator for adjudication of the dispute and closed the writ petition.

4. On 26.10.2022, the Hon'ble Judge/Administrator has passed an order and the operative portion of the said order is extracted as follows:

“... Hence, the order of suspension dated 24.10.2020 is revoked and the charges 1 to 10 made against Dr.C.Hentry as per the Charge Memo, dated 25.01.2021 are found to be without basis and not proved and Dr.C.Hentry is required to take charge as Principal with immediate effect. The period of suspension from 24.10.2020 till the date of his taking charge as principal of St.Jude's College, Thoothur will be treated as period of continuous service. The Principal-in-charge will hand over charge to Dr.C.Hentry to act as Principal immediately, Dr.C.Hentry will submit his joining Report to the Administrative Officer.”

5. A reading of the above said order makes it clear that the order of suspension has been revoked by the Administrator and the suspension period



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should be treated as a period of continuous service. Pursuant to the said order, the petitioner has rejoined as the Principal of the Aided College on 27.10.2022 and he attained superannuation on 31.03.2024.

6. While he was in service, the petitioner has approached the third respondent herein seeking arrears of salary for the period of his suspension. The third respondent has passed the impugned order on 13.09.2023, rejecting the said request on the ground that since the petitioner was illegally placed under suspension by the College Management, the salary has to be disbursed only by the College Management. Therefore, the question of payment of arrears of salary by the State through grant-in-aid would not arise. This order is under challenge in W.P(MD) No.27772 of 2023.

7. After retirement, the petitioner had again approached the third respondent seeking disbursement of pensionary benefits and for regularisation of the suspension period between 24.10.2020 and 31.10.2021. The third respondent by way of proceedings dated 16.11.2023, had rejected the request for sending pension proposal on the ground that the period of suspension has not yet been regularised and recorded in the Service Register.



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Therefore, the request of the writ petitioner for disbursement of pension can be considered only after the same is recorded in the Service Register. The petitioner's request for regularisation of the suspension period was rejected by another impugned order dated 05.12.2023 on the ground that on 13.09.2023, the third respondent has already passed an order to the effect that the salary for the suspension period has to be released by the Management. Unless the salary is released for the said period by the Management, the question of regularizing the period of suspension would not arise. These two orders are under challenge in W.P(MD) No.3732 of 2024.

8. The facts captured above will clearly indicate that there is a dispute as to the fact whether the College Management has to pay the salary or the State has to pay the salary through grant-in-aid for the period of suspension between 24.10.2020 and 31.10.2021. However, there cannot be any dispute that the suspension period has been regularised by the orders of the Hon'ble Judge/Administrator, dated 26.10.2022. When the Hon'ble Judge/Administrator has already passed an order regularizing the period of suspension and he has further declared that the period would be treated as a service period, the respondent authorities are not right in still contending that



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the period of suspension is yet to be regularised. As on today, the administration is in the hands of the Administrator. When the Management has already regularised the said period of suspension, the question of again seeking regularisation does not arise. In fact, the order of the Hon'ble Judge/Administrator is pursuant to the orders of this Court, dated 27.04.2022 in W.P(MD) No.17252 of 2020.

9. In view of the fact that the suspension period has already been regularised, there cannot be any legal impediment for the authorities to send the pension proposal to the concerned authorities treating the said suspension period as a service period. Any monetary benefits which the petitioner seeks to receive for the said suspension period has to be worked out before the Management/Administrator.

10. In view of the above said deliberations, this Court is inclined to pass the following orders:

(i) W.P(MD) No.27772 of 2023 stands disposed of with a direction to the writ petitioner to approach the Management/Administrator claiming arrears of



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salary for the period between 24.10.2020 and 31.10.2021;

(ii) The services of the writ petitioner for the above said period stands regularised and the said period should be treated as service period for all purposes; and

(iii) The order passed in W.P(MD) No.3732 of 2024 is hereby set aside and the respondent authorities are directed to forward the pension proposal of the writ petitioner treating the above said period as a service period.

11. With the above said observations, both the Writ Petitions stand disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petitions stand closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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R.VIJAYAKUMAR,J.

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