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W.A.No.363 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2025

CORAM

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**W.A.No.363 of 2023
and
C.M.P.No.3432 of 2023**

The Registrar,
Pondicherry University,
R.Venkat Raman Nagar,
Kalapet,
Puducherry - 605 014.

... Appellant

-Vs-

1. Dr.B.Chitra

2. The Secretary to Government of India,
Ministry of Education,
Government of India,
New Delhi.

... Respondents

PRAYER : Appeal under Clause XV of Letters Patent against the order dated 17.11.2022 made in W.P.No.28521 of 2022.

For Appellant : Mr.A.R.L.Sundaresan
Senior Counsel/Addl. Solicitor General
for Mr.A.V.Bharathi

For Respondents : Mrs.V.Vijay Shankar



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J U D G M E N T

WEB COPY (Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This intra Court appeal has been directed against the order dated 17.11.2022 made in W.P.No.28521 of 2022.

2. The first respondent, viz., B.Chitra was a permanent Faculty Member / Officer of the appellant University from where on deputation, she has been sent to Indian Maritime University 'in short IMU' to join there as Controller of the Examination at the request of IMU. Accordingly, she got relieved from Pondicherry University from 11.09.2012 and joined at IMU on 12.09.2012 where she was working as controller of examination.

3. After having worked for some months, IMU by proceedings dated 05.08.2013 relying upon the Executive Council Committee held on 01.08.2013 directed that the first respondent, viz., Chitra, Controller of Examination of IMU be repatriated to her parent Department with immediate effect. Therefore, she has been repatriated on 05.08.2013, pursuant to which, she got relieved from IMU and rejoined at the parent University, i.e., appellant University on 08.08.2013 where she started continuously working.

4. As per the terms and conditions of deputation during the period where



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the first respondent / petitioner was working at IMU, IMU would pay the salary and other benefits to the first respondent / writ petitioner.

5. Though the deputation period was five years out of which one year was confirmed, i.e., initial deputation is for one year, even before one year period, since the first respondent / writ petitioner has been repatriated to the parent University, as per the terms and conditions between IMU and the first respondent / writ petitioner, such a repatriation could have been made on issuance of three months notice which could not be done by IMU, therefore, in lieu of the same, as per the conditions imposed between them or agreed upon between them, three months salary ought to have been paid to the first respondent / writ petitioner, accordingly three months salary to the extent of Rs.3,20,511/- has been paid to the first respondent / writ petitioner.

6. This amount of Rs.3,20,511/- equal to the three months salary since has been paid in lieu of three months notice period by IMU had been taken as a double payment of the salary for the period even from 08.08.2013 where after rejoining the appellant University since she received salary continuously every month from the appellant University, the appellant University wanted to treat this three months salary as double payment, therefore, a recovery notice had



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been issued by order dated 03.08.2022. The said order was under challenge in the writ petition.

7. The learned Judge having gone through the factual matrix has come to the conclusion that such recovery could not be possible in view of the various reasons including the reasons where the University, i.e., appellant University has sought for such recovery without any basis or without paying any salary for the period where she was not working in Pondicherry University and was working only in IMU and ultimately, the learned Judge allowed the said writ petition through the impugned order.

8. Assailing the said order, Mr.A.R.L.Sundaresan, learned Senior Counsel / Additional Solicitor General appearing for the appellant University would contend that, after she got relieved from IMU and joined at Pondicherry University, she claimed salary every month, that was also paid by the appellant University.

9. In this context, when this was verified with IMU, IMU has sent a letter dated 03.12.2014 stating that the first respondent / writ petitioner had been paid three months salary in lieu of three months notice to the extent Rs.3,20,511/-.



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Therefore, that sum can be equated for the three months salary payable to the first respondent / writ petitioner by the appellant University which eventually starts from August 2013, i.e., on 08.08.2013, the date on which she rejoined in the appellant University. However, even for the said period from 08.08.2013, every month salary had been claimed and received by the first respondent / writ petitioner, the appellant University treated atleast for three months, that should be a double entry or double payment received by the first respondent / writ petitioner, therefore, it become necessitated for the appellant University to issue the impugned order before the writ Court for the recovery of the said sum of Rs.3,20,511/-.

10. We are not impressed with the said submissions made by the learned Senior Counsel / Additional Solicitor General for the simple reasons that the period for which the first respondent / writ petitioner worked at IMU, the responsibility to pay the salary was at the hands of IMU which they have paid. Like that, for the period, the first respondent / writ petitioner started working at the appellant University, the appellant University is to take the responsibility to pay the salary which they have paid.

11. However, the said sum of Rs.3,20,511/- is not the actual salary for



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any period she had worked with IMU, it is only a compensatory amount payable by IMU in view of pre-matured repatriation of the first respondent / writ petitioner to the parent University. Therefore, instead of three months notice to be given to the first respondent / writ petitioner who was in deputation, in lieu of the same three months salary as per the conditions imposed against him since has been paid by IMU, that cannot be treated as a salary. Therefore, the said amount cannot be equated for three months salary to be payable by the appellant University for the work period the writ petitioner has rendered service at the appellant University, therefore the appellant University ought not to have made an attempt to recover the said amount as if that there has been a double salary claimed and paid.

12. That apart, just before the retirement on superannuation in October 2022, this recovery proceedings since has been initiated in August 2022, as per the mandate of the Hon'ble Supreme Court in the matter of ***State of Punjab and others Vs. Rafiq Masih (White Washer) and others*** reported in (2015) 4 ***SCC 334***, such kind of proceeding cannot be issued to recover the amount, that was also one of the added reasons for which the order impugned before the writ Court passed by the University cannot be sustained. Therefore, for all these reasons which we have discussed apart from the reasons that has been stated by



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the learned Judge in the impugned order, the order dated 03.08.2022 passed by the appellant University which was impugned before the writ Court cannot be sustained, therefore there has been every justification on the part of the writ Court to pass the impugned order allowing the writ petition and hence, we do not find any reason to interfere with the same.

13. Resultantly, this Writ Appeal fails and hence, it is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.) (A.D.M.C., J.)
07.04.2025

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji

To

The Secretary to Government of India,
Ministry of Education,
Government of India,
New Delhi.



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