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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 31.01.2025

PRONOUNCED ON : 19.02.2025

CORAM:

**THE HON'BLE DR.JUSTICE ANITA SUMANTH
AND
THE HON'BLE MR.JUSTICE G.ARUL MURUGAN**

**W.A.No.1190 of 2022
and C.M.P.No.7517 of 2022**

Dr.Sasikantha Dash
S/o.Prafulla Kumar Dash,
Registrar Cum Chief Vigilance Officer (former),
Pondicherry University,
Puducherry - 605 014.
Presently Principal,
Tagore Govt. Arts and Science
College Lawspet,
Puducherry - 605 008.

...

Appellant /
Petitioner

versus

1.The Secretary to Government,
Government of India,
Ministry of Human Resource Developmet (MHRD),
Department of Higher Education,
Shastri Bhawan, New Delhi.

2.The Secretary to Government,
Higher and Technical Education Department,
Chief Secretariat, Puducherry.

3.Dr.Gurumeetsingh,

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The Vice Chancellor cum
Chairman of Executive Council,
Pondicherry University,
R.Venkatraman Nagar,
Kalapet, Puducherry - 605 014.

4.The Vice Chancellor cum
Chairman of Executive Council,
Pondicherry University,
R.Venkatraman Nagar,
Kalapet, Puducherry - 605 014.

5.The Deputy Registrar (Administration)
Pondicherry University,
R.Venkatraman Nagar,
Kalapet, Puducherry - 605 014.

6.Dr.B.Chitra,
Controller of Examintion (I/c),
Pondicherry University,
R.Venkatraman Nagar,
Kalapet, Puducherry - 605 014.

7.Pondicherry University SC/ST
Employees Welfare Associations,
Represented by its President,
Pondicherry University,
R.Venkatraman Nagar,
Kalapet, Puducherry - 605 014.

8.The Director,
Central Bureau of Investigation,
Chennai.

...

Respondents /
Respondents



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PRAAYER: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 17.02.2022 in W.P.No.5836 of 2019.

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For Appellant : Mr.Vijay Narayan
Senior Counsel
for Mr.Stalin Abhimanyu

For Respondents : Mr.M.Ravi - R3 to R6
Mr.V.Ashok Kumar - R1
Central Government Standing Counsel
Not ready in notice regarding R2, R7 & R8

J U D G M E N T

[*Judgment* of the Court was made by **G.ARUL MURUGAN, J.**]

The appellant had preferred the intra-court appeal challenging the common order dated 17.02.2022 in W.P.Nos.5836 of 2019 and 15341 of 2020.

2. The short facts to be noted in the appeal is that the Pondicherry University through their recruitment notification dated 15.12.2017 had invited applications for the post of Registrar, Finance Officer and Controller of Examinations by way of direct recruitment or by deputation. The appellant had applied, who on being successful, was called for interview and ultimately selected by the selection committee, pursuant to which, the appellant was appointed as the Registrar of Pondicherry University. His



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tenure to the post of Registrar was for a period of 5 years. He was relieved from Tagore Government Arts & Science College by the Government of Puducherry on 05.07.2018 and he had joined in the post of Registrar in the Pondicherry University. While he was serving as Registrar, the appellant received a mail on 20.02.2019 which informed that based on the decision of the executive council meeting, he was relieved from the office of Registrar.

3. The appellant had challenged the decision of the executive council in W.P.No.5836 of 2019 and while the appellant was reverted to his parent department, a fresh notification was issued dated 08.09.2020 pertaining to the post of Registrar alone which was challenged in W.P.No.15341 of 2020 and the writ court by a common order dated 17.02.2022 had dismissed the challenge made to the new recruitment notification, however, partially allowed the other writ petition wherein the order in respect of reversion was upheld, however, the remarks made which had resulted in a stigma alone was directed to be expunged from the service records. Aggrieved by the decision of the writ court in upholding the decision of the executive council, the writ petitioner is on appeal.



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4. Mr.Vijay Narayan, learned Senior Counsel for Mr.Stalin Abhimanyu appearing for the appellant argued that the appellant had been originally appointed as Assistant Professor by the UPSC and was later appointed in the Union Territory of Puducherry and was serving as Principal in the Tagore Government Arts and Science College, Puducherry.

5. Learned Senior Counsel further submitted that the recruitment notification issued by the Pondicherry University called for both direct recruitment and by deputation and from all the records available, it is certain that the appellant was appointed as Registrar by deputation. It is his further contention that when the selection and appointment is by way of deputation, the question of executing an agreement does not arise and therefore the stand taken by the University that since the agreement has not been executed, the appellant had not accepted the terms of appointment is baseless.

6. It is his further contention that when even as per the University stand, the action is sought to be justified by relying on the statute of the University, then as per Statute 27 of the Schedule to the Statutes of the University, removal of an employee for any other reason shall be given 3



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months notice in writing. But in the instant case, the appellant was not issued with any notice and therefore the impugned decision of the executive council is bad both for violation of statute and also due to violation of principles of natural justice.

7. Learned Senior Counsel further by referring to the impugned decision of the executive council submitted that the appellant was never informed or put on notice about the unsatisfactory performance or the dissatisfaction at any point of time. He further contended that when the appellant is in the services of the Union and has been appointed by the University on deputation, the impugned action is in violation of Article 311 of the Constitution of India.

8. He further contended that when the learned Judge had come to the conclusion that entries made in the decision of the executive council is a stigma and had directed the same to be expunged from the service records, then in such circumstances there was no basis for passing the impugned order and therefore the order of the learned Judge in upholding the reversion made cannot be sustained.



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9. By relying on the decision of the Hon'ble Supreme Court in the case of ***Ashok Kumar Ratilal Patel v. Union of India*** reported in (2012) 7 **SCC 757**, he distinguished the difference between transfer on deputation and appointment on deputation and in the instant case, since it is an appointment on deputation he has an indefeasible right to be treated fairly and equally. He made reliance to the decision of the Hon'ble Supreme Court in the case of ***Dev Dutt v. Union of India*** reported in (2008) 8 **SCC 725** to the proposition that any adverse entry or remark as against the employee must be communicated to him and an opportunity of hearing must be given.

10. Reliance was also made to the decision in ***Dipti Prakash Banerjee v. Satyendra Nath Bose National Centre for Basic Sciences*** reported in (1999) 3 **SCC 60** for the proposition that when an order of termination passed causes a stigma then absolutely an enquiry is necessary before passing the same. He has also made reliance to the decision of the Hon'ble Supreme Court in the case of ***P. Venugopal v. Union of India*** reported in (2008) 5 **SCC 1** for the proposition that the tenure of appointment cannot be curtailed disadvantageous to the employee. Since the



impugned order cannot be sustained for these reasons, he sought for interference of this Court.

11. Mr.M.Ravi, learned counsel for Pondicherry University argued that even though the application was called for both by the direct recruitment and by deputation, the appellant had consciously applied only under the direct appointment. By pointing out the application submitted by the appellant in page 7, he submitted that column in respect of the endorsement of the present employer with office seal and date is vacant and therefore since the appellant had not applied under deputation, he has not obtained the endorsement from the parent employer.

12. It is his further contention that when once the appointment is through direct recruitment, then it was mandatory under Section 31(1) of the Pondicherry University Act, 1985 that every employee shall be appointed under a written contract which shall be lodged with the university and the copy of which shall be furnished to the employee concerned. In view of the same, the very appointment order dated 02.07.2018 reads that he shall execute an agreement as per the administrative ordinances of Pondicherry



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University for the contract of service of offices and along with the order, the contract form has also been enclosed and the appellant had not signed this contract and executed the Memorandum of Agreement which alone will enable the appellant for a 3 months notice period.

13. It is his further contention that since the services of the appellant were found not satisfactory, and the council decided to terminate the services, the appellant made a voluntary request through representation dated 20.02.2019 requesting to relieve him from the post of Registrar to enable him to join back in his parent department and once he had consciously requested the University to relieve him of the services, the subsequent proceedings initiated by the appellant challenging the reversion to his parent department cannot be sustained. Learned counsel further contended that while taking note of the provisions and the materials available, the learned Judge had rightly come to the conclusion that the termination of the service will not amount to a penalty and had upheld the reversion of the petitioner which is perfectly justified and further even the appellant had been given the relief by the learned Judge by directing that the references made in the decision of the executive council to be removed from



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the service records of the petitioner as it may result in a stigma and as such no further interference is required at the hands of this Division Bench and sought for dismissal of the appeal.

14. Heard the rival submissions and perused the materials available on record.

15. The entire controversy revolves around the nature of appointment of the appellant and the manner in which he had been relieved from the services of the University.

16. It is not in dispute that the appellant was initially appointed as Lecturer in the year 1999 in Donyi Polo Government College at Arunachal Pradesh. After his transfer to the College in Bomdila, he was appointed as an Assistant Professor in Avvaiyar Government College for Women through UPSC and served for a period from 2006 to July 2010 and thereafter he was appointed as Principal in two of the Colleges in the Union territory of Puducherry and finally was serving in Tagore Government Arts and Science College, Puducherry.



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17. While the appellant was serving as the Principal in the Government College of the Union Territory of Puducherry, the Pondicherry University had issued a recruitment notification vide RC/2017/29 dated 04.10.2017 to fill up the posts of Registrar, Finance Officer and Controller of Examinations. Again a further advertisement was issued on 15.12.2017 for which the appellant had responded and submitted his application on 31.12.2017 applying for the post of Registrar. The appellant was short listed and called for interview and had appeared before the selection committee along with 68 others in which the appellant came out successful and was recommended by the selection committee. The recommendation of the selection committee was placed before the executive council of the Pondicherry University and pursuant to the resolution dated 02.07.2018, the appellant was selected as the Registrar of Pondicherry University.

18. When it is the contention of the University that it was only a direct recruitment and not an appointment by deputation, it becomes essential to decide on the nature of appointment made. It is true that the notification has been issued calling for both direct recruitment and by



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deputation and the appellant had also submitted an application for direct recruitment and he has not obtained any endorsement from the present employer. But however still the University and also the employer / Puducherry Government seems to have decided to appoint the appellant on deputation.

19. For easy reference, the appointment order dated 02.07.2018 is extracted hereunder:-

“PU/ESTT/NT10/2017-18/56

Date: 02.07.2018

OFFICE ORDER No.61

Sub: PU-Estt-Offer of appointment to the post of Registrar - Reg

*Ref: (1) Advertisement dated 4.10.17, 15.12.17 and 02.01.18
(2) His application dated 31.10.2017
(3) Selection Committee minutes dated 29.06.2018
and 30.06.2018
(4) Executive Council Resolution No.2018.131.15,
dated 02.07.2018*

Consequent upon the approval by the Executive Council vide Resolution fourth cited based on the recommendations of the Selection Committee third cited above Dr.Sasi Kanta Dash, Principal, Tagore Arts College, Puducherry is appointed as Registrar, Pondicherry University, for a period of five years from the date of joining.



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He is eligible to draw the pay of Rs.1,44,200/- (Level 14) and other allowances as prescribed in the University rules.

He is advised to report for duty at the earliest along with requisite documents connected with his relieving of service from parent department.

He shall execute an agreement as per the Administrative Ordinances of Pondicherry University for Contract of Services for Officers.

His appointment will be governed by the Rules and Regulations of this University and other norms stipulated by the UGC/MHRD from time to time.”

20. As per the order, the appellant is appointed as Registrar, Pondicherry University for a period of 5 years from the date of joining and he has been advised to report for duty at the earliest along with the requisite documents connected with his relieving of service from the office of the parent department.

21. Further the Government of Puducherry had issued G.O.(Ms.)No.25 Higher & Technical Education dated 05.07.2018
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sanctioning the deputation of the appellant from the post of Principal, Tagore Government Arts and Science Department, Puducherry to assume the post of Registrar in Pondicherry University for a period of 5 years. It also reads that terms and conditions of the deputation will be issued by the University and he had been relieved from the services of Government.

22. The abovesaid Government Order reads as follows:-

“G.O.Ms.No.25

Dated: 05.07.2018

READ: 1.Letter No.PU/ESTT/NT10/2017-18/56, dated 02.07.2018 of

the Registrar in-charge, Pondicherry University, Puducherry.

2.I.D.Note No.5032/DHTE/Estt/E1/2018/92, dated 04.07.2018 of the Director of Higher & Technical Education, Puducherry.

ORDER

The Lieutenant Governor, Puducherry is pleased to sanction deputation of Dr.Sasi Kanta Dash, Principal, Tagore Government Arts & Science College, Puducherry to assume the post of Registrar, Pondicherry University, Puducherry, for a period of 5 years.

2. Dr.Sasi Kanta Dash is relieved from this Administration on the forenoon of 05.07.2018, with instructions to report for duty before the Vice-Chancellor, Pondicherry University, Puducherry.

3. The terms and conditions of his deputation will be issued by Pondicherry University, Puducherry.”



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23. In view of the appointment order and also sanctioning of deputation and relieving from the parent department, it would clearly reveal that though the appellant had submitted his application for direct recruitment to the post of Registrar, both the Government/ the parent department and also the Pondicherry University had treated and appointed the appellant as the Registrar of the University only by direct recruitment on deputation.

24. Further after the appellant was relieved from the services of Principal, Tagore Government Arts and Science College on deputation and had reported and joined duty as Registrar in the Pondicherry University on 05.07.2018, the Pondicherry University has issued Office Orders dated 16.07.2018 and fixed his pay as he has assumed the charge as Registrar of University on deputation basis. The proceedings of the University dated 16.07.2018 reads as follows:-

“PU/ESTT/NT10/2017-2018/67

Date: 16.07.2018

OFFICE ORDER No.65

*Sub: PU-ESTT - Appointment of Dr.Sasi Kanta Dash as
Registrar of this University w.e.f. 05.07.2018 A.N.*



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on deputation basis-Orders issued -Reg.

- Ref: 1) Office Order No.61, dated 02.07.2018
2) Relieving Order G.O.Ms.No.25 dated 05.07.2018 of Govt. of Puducherry
3) His Joining Report dated 05.07.2018

In pursuance of the ref. (1) cited Dr.Sasi Kanta Dash who is appointed as Registrar of this University for a period of five years has assumed the charge as Registrar of this University on 05.07.2018 A.N. on deputation basis.

His pay in the post of Registrar is fixed at Rs.1,44,200/- (Level 14) and other allowances as prescribed in the University rules.

However, he may exercise his option for fixation of pay within a month from the date of receipt of this order.

His appointment in this University will be governed by the rules & regulations of this University, the terms and conditions of deputation as provided in the GOI guidelines and other norms stipulated by the UGC.

//BY ORDER//

DEPUTY REGISTRAR (ADMN.)”

25. In view of all these proceedings, we have no hesitation in coming to the conclusion that the appointment of the appellant as Registrar in the Pondicherry University is an appointment by deputation.

26. While the appellant was serving as the Registrar in the University, an e-mail was sent by the executive council on 20.02.2019 at 16/43



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2.50 p.m. addressed to all the members of the executive council informing that 134th emergent meeting of the executive council will be held on the same day on 20.02.2019 at 3.30p.m. to discuss some very urgent administrative matters of the University.

27. Pursuant to which the appellant had received an e-mail on the same day at 6.20 p.m. containing the relieving order dated 20.02.2019. As per the relieving order, in view of the decision of the executive council, the appellant who is on deputation from Tagore Government Arts and Science College is relieved from the post of Registrar as his services are no longer required and he is repatriated to his parent department.

28. The relieving order dated 20.02.2019 is extracted hereunder:-

“PU/Estt/NT10/2019/362

20th February 2019

OFFICE ORDER

Sub :- PU - Relieving of Dr.Sasi Kanta Dash from the post of Registrar, Pondicherry University (on deputation) and his repatriation to his parent department with effect from Afternoon - Order Issued- Reg.

- Ref:*
1. *Dr.Sasi Kanta Dash application dated 31.10.2014 for the post of Registrar*
 2. *Executive Council Resolution No 2018.131.15*



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dated 02.07.2018.

3. *Offer of Appointment dated 02.07.2018 to Dr.Sasi Kanta Dash.*
4. *Relieving Order – G.O.MS. No.25 dated 05.07.2018 of Govt of Puducherry.*
5. *Joining Report dated 05.07.2018*
6. *Office Order No.65 dated 16.07.2018*
7. *Executive Council Resolution No. 2019.134.01 dt. 20.2.2019.*

In accordance with the decision of the Executive Council, Dr.Sasi Kanta Dash, Registrar, Pondicherry University, who is on deputation from Tagore Government Arts & Science College, Govt. of Puducherry (Directorate of Higher & Technical Education) is now relieved from the post of Registrar, Pondicherry University, as his services are no longer required. His relief from Pondicherry University will be with immediate effect i.e. from the afternoon of 20th February 2019 and he is repatriated to Govt. of Puducherry (Directorate of Higher & Technical Education) with instructions to report to his parent Department.

He shall handover all records and such other articles belonging to the University to the Assistant Registrar, Registrar's Secretariat.

If he has any due(s) outstanding in the University, the same will be intimated to his parent department to recover it from his salary to be drawn in his parent department.

/By Order/

*(P. Muralidassan)
Deputy Registrar (Admn.)”*



29. Further, the above order has been passed in view of the decision taken in the emergent council meeting and the relevant portion is extracted hereunder:-

“The Directorate of Higher & Technical Education, vide GO.Ms.No.25 dated 05.07.18 sanctioned the deputation of Dr.Sasi Kanta Dash, Principal, Tagore Govt. Arts & Science College, Govt. Of Puducherry (Directorate of Higher & Technical Education) for a period of 5 years. He joined Pondicherry University on the afternoon of 05.07.18. However, he has not signed the Contract Form of Service till date.

During the last 8 months, the performance of Dr.Sasi Kanta Dash is far below satisfaction despite various requests, instructions and reminders in person. It is found that many administrative matters, viz. review of Recruitment Rules, conduct of Departmental Promotion Committee, Modified Assured Career Promotion Scheme, Career Advancement Scheme, etc, had not taken place, leading to resentment and dissatisfaction among the employees, thereby adversely affecting the efficiency of the organization and his continuance further in the University will not be in the public interest. Letters/Queries from MHRD/UGC etc. requiring urgent responses have also not been attended to in time. Therefore, the continuance of Dr.Sasi Kanta Dash in the capacity of Registrar, Pondicherry University shall impede the progress of the institution in all related areas and shall cause dissatisfaction among all the stakeholders.



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This matter is placed before the executive council for consideration and appropriate decision.”

30. A perusal of the resolution reads that the appellant had not signed the contract form in the last 8 months and his performance is far below satisfaction despite various requests, instructions and reminders in person. It also reads that several administrative matters had not taken place leading to resentment and disqualification which affects the efficiency of the organisation and further letters and queries seeking urgent responses had also not been attended in time. Apart from this the learned counsel for the University in his submissions had also stated that the appellant by letter dated 20.02.2019 had voluntarily requested to relieve him from the services.

31. The order dated 20.02.2019 which is extracted above has 7 references and after referring to the office order no.65 dated 16.07.2018 in reference 6 fixing the pay of the appellant, the executive council resolution is found in reference 7. If at all there had been any letters, instructions or reminders issued to the appellant in the period of 8 months as referred to in the resolution and further letters and queries which were sent went

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unresponded and further had there been any letter dated 20.02.2019 of the appellant requesting to relieve him from the services, the same would have been found place in the reference contained in the order.

32. The absence of any such communication or the reference of any of this correspondence / letters / notices / or remarks would only go to show that pursuant to the appellant joining in the University as Registrar, no adverse remarks or any letter or intimation pointing out his deficiency or his attention was issued at any point of time and all of a sudden a executive council meeting was urgently called for on 20.02.2019 by sending an e-mail at 2.50p.m.for the meeting at 3.30p.m. A decision had been taken to relieve the appellant from the post of Registrar and repatriate to his parent department. In fact the order dated 20.02.2019 only refers that his services are no longer required but the resolution of the executive council points out several deficiencies in the service of the appellant.

33. In this regard, it is useful to refer to the relevant provisions of Pondicherry University Act, 1985 [hereinafter referred to as “the Act”] with respect to the post of Registrar. As per Section 11(7) of the Act, the post of



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Registrar comes within the officers of the University and as per Section 16, the Registrar shall be appointed in such manner as may be prescribed by the Statutes and he shall have the power to enter into agreements, sign documents on behalf of the University and exercise such other powers as prescribed by the Statutes.

34. As per the Statutes of the University contained in the Schedule, Statute 4 prescribes that the Registrar shall be a whole-time salaried officer of the University and emoluments and other terms and conditions of service of the Registrar shall be such as may be prescribed by the Ordinances.

35. As per Statute 19 in the Schedule to the Act, the Selection Committee for making recommendation to the executive council for appointment of the post of Registrar and such other posts has been set out and Note 3 contained in the Statute 19 reads as follows:-

“NOTE 3 : The Selection Committee shall recommend appointment to the post of Registrar on tenure basis for a period of five years and his tenure may be renewed for similar terms by the Executive Council on the recommendations of the Vice Chancellor:

Provided that Officers of All India Services and Central Services may be appointed on deputation to



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the post of Registrar by the Executive Council on the recommendations of the Vice-Chancellor on such terms and conditions as may be stipulated by the Government of India.”

36. The writ court had referred to the definition contained in Section 2(1) of the Act which defines employee as any person appointed by the University including teachers and other staff of the University. Noting Section 11, the learned Judge had concluded that the post of Registrar will not come under the definition of employee as he is an officer of the University.

37. The other bone of contention is that the Statute 27 in the Schedule to the Act will not be applicable to the appellant as he has not executed agreement as forwarded to him along with the appointment order. Learned single Judge had also held that this statute will not be applicable as the appellant is not an employee in view of the above referred provision. Statute 27 is extracted hereunder:-

“27 (1) Notwithstanding anything contained in the terms of his contract of service or of his appointment, an employee,



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other than a teacher or a member of the academic staff, may be removed by the authority which is competent to appoint the employee.

- (a) if he is of unsound mind or is a deaf-mute or suffers from contagious leprosy;*
 - (b) if he is an undischarged insolvent;*
 - (c) if he has been convicted by a court of law of any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months;*
 - (d) if he is otherwise guilty of misconduct;*
Provided that no employee shall be removed from his office unless a resolution to that effect is passed by the Executive Council by a majority of two-thirds of its members present and voting.
- (2) No employee shall be removed under clause (1) until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.*
- (3) Where the removal of such employee is for a reason other than that specified in sub-clause (c) or sub-clause (b), of Clause (1) he shall be given three months' notice in writing or paid three months salary in lieu of such notice.*



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(4) *Notwithstanding anything contained in the Statutes, an employee not being a teacher or a member of the academic staff, shall be entitled to resign:-*

- (i) *If he is a permanent employee, only after giving three months' notice in writing to the appointing authority or paying to the University three months' salary in lieu thereof:*
- (ii) *If he is not a permanent employee, only after giving one-month's notice in writing to the appointing authority or paying to the University one month's salary in lieu thereof:*

Provided that such resignation shall take effect from the date on which the resignation is accepted by the appointing authority."

38. The manner of removal from service of the employee is set out in Statute 27 as extracted above and as per Clause 2, no employee shall be removed under Clause 1 until he has been given a reasonable opportunity of showing cause against the proposed action and further as per Clause 3, if reason for such removal is other than those specified under Clause 1, then he shall be given 3 months notice in writing or paid 3 months salary in lieu of such notice. The Statute makes it clear that an action of removal of an employee can be resorted to only by complying with the Statute.



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39. Though as per Section 11 of the Act the post of Registrar is designated as an officer of the University, still the service conditions of the post of Registrar are based on the ordinances issued under the provisions of the Act.

40. In this regard, it is useful to refer to the Ordinances Governing Administrative Matters of the Pondicherry University (hereinafter referred as “The Administrative Ordinances”) wherein Chapter 1 deals with Ordinance governing the terms and conditions of service of all employees of the University other than teachers. As per Rule 3(v) in Part II of the said Ordinance, employee (non-teaching) means a University employee other than teaching staff. Rule 4(1)(A) prescribes the emoluments, terms and conditions of the service of the post of Registrar. Rule 4(1)(A) reads as follows:-

- 1. The Registrar shall be a whole-time salaried officer of the University and he/she shall receive pay besides allowances as admissible to the University staff, in the scale of pay of Rs.16400-450-20900-500-22400 or as revised from time to time by the Executive Council. His/her appointment shall be for a term of five years and it may be renewed for similar terms.*



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Provided that in the event of the Office of the Registrar being filled by obtaining the services of a person on deputation / absorption, the salary and other services conditions shall be such as may be admissible to him according to the terms and conditions finalized in consultation with the parent Organisation.

- 2. Registrar shall perform his/her functions and duties as laid down in the Statutes and Ordinances.*
- 3. Registrar shall be provided with unfurnished University accommodation for which he/she shall pay rent at the usual rate.*
- 4. Other conditions of service of the Registrar shall be as provided in the "Contract of Service of Officers" (enclosed) and approved by the Executive Council, subject to such other additional conditions as may be specified by the Executive Council.*
- 5. The contract of service of the Registrar shall be signed, on behalf of the University, by the Officer performing the duties of the Registrar at that time or by the Finance Officer of the University."*

41. In view of the above Rule, the Registrar is a whole time salaried officer of the University and also the form of contract of service has also



been annexed therein, which is the form that was forwarded to the appellant at the time of issuance of the appointment order. Further Rule 9 in Part III of the Chapter 1 Ordinance deals with the termination of service, wherein as per sub-rule 2, the services of a permanent employee may be terminated by the Vice-Chancellor / Executive Council at any time by a notice of three months or on payment of pay and allowances drawn by him immediately before the termination of his service for such period as the notice falls short of three months, or without notice on payment of three months pay plus allowances.

42. As per the Chapter 3 Ordinance governing the Control and Appeal of the Employees of the University, “employee” is defined under Rule 2(c) which reads as follows:-

“2 (c). "Employee" means any person in the service of the University who is a member of a cadre on one of the categories of posts created under the University and includes any such person on foreign service or whose services are temporarily placed at the disposal of another University or any other authority by the University and also any person in the service of a State Government or Central Government or a local or other authority or any other



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autonomous body whose services are temporarily placed at the disposal of the University.)”

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43. As per Rule 2(c), “employee” means any person in the service of a State Government or Central Government or local or other authority or any other autonomous body whose services are temporarily placed at the disposal of the University and also any person in the service of the University who is a member of a cadre in one of the categories of posts created under the University.

44. Here in the instant case, the Registrar is a category of post created under the services of the University and the appellant who is under the service of the Central Government has been temporarily placed on deputation at the disposal of the University and in view of the same, the appellant being a Registrar of the University would come within the definition of the employee under Rule 2(c).

45. It is also relevant to note Rule 8 of the Chapter 3 Ordinance governing the control and appeal of the employees of the University which



prescribes the authority to initiate proceedings. Rule 8 is extracted hereunder:-

- “8. (1) *The Executive Council or any other authority empowered by it by general or special order may -*
- (a) institute disciplinary proceedings against any employee;*
 - (b) direct a disciplinary authority to institute disciplinary proceedings against any employee on whom that disciplinary authority is competent to impose under these rules any of the penalties specified in rule 6.*
- (2) *A disciplinary authority competent under these rules to impose any of the penalties specified in clauses (i) to (iv) of rule 6 may institute disciplinary proceedings against any employee for the imposition of any of the penalties specified in clause (v) to (ix) of rule 6 notwithstanding that such disciplinary authority is not competent under those rules to impose any of the latter penalties.”*

46. In view of Rule 8, the Executive Council or any other authority empowered by it can institute disciplinary proceedings against any employee to impose any of the penalties contained under Rule 6 including removal from service and dismissal from service as per sub-rules (viii) and (ix).

Relevant portion of Rule 6 is extracted hereunder:

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“6. The following penalties may for good and sufficient reasons and as hereinafter provided, be imposed on an employee namely:

...

Major penalties:

(viii) Removal from service

(ix) Dismissal from service

Explanation: The following shall not amount to a penalty within the meaning of this rule, namely:

...

(iv) Reversion of an employee officiating in a higher grade or post to a lower grade or post, on the ground that the employee is considered to be unsuitable for such higher grade or post or on any administrative ground unconnected with the conduct;

(v) Replacement of the services of an employee, whose services has been borrowed from outside authority at the disposal of such authority.

...

(vii) Termination of the services -

...

(c) of an employee employed under an agreement, in accordance with the terms of such agreement."

47. Further the procedure for imposing penalty is set out under

Rule 9. As per the explanations (iv) and (v) set out under Rule 6, reversion



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of an employee officiating in a higher grade or post to a lower grade or post on the ground that the employee is considered to be unsuitable for such higher grade or post or on any administrative ground unconnected with the conduct as well as the replacement of the services of an employee, whose services had been borrowed from outside authority, at the disposal of such authority are not considered as penalties within the meaning of Rule 6.

48. The writ court had dismissed the writ petition insofar as the reversion on the ground that it is not a penalty as contained under the Chapter 3 Ordinance governing the Control and Appeal of the Employees of the University.

49. In our considered opinion, when the appellant was appointed to the post of Registrar by appointment through deputation and he has been relieved from the services of the post of Registrar citing certain lapses and his unsatisfactory performance, then it necessarily falls under the category of penalty in either one of the clauses contained in Sub-rule (viii) or (ix) of Rule 6 of the abovementioned Ordinance. In this regard, we are not in agreement with the finding of the learned Judge that the reversion of the



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appellant to the parent department would not fall under Rule 6 for penalty since the University is entitled to revert, as per the agreements to be entered into with the concerned individuals. As it is a case of appointment by deputation, it cannot be construed as a mere transfer on deputation.

50. Further, when the University had allowed the appellant to join the post and serve for nearly 9 months, at this stage, there cannot be any issue raised in respect of non-execution of agreement. When it could have been entered into even at a later stage, but however, neither party considered it necessary all along. When the removal of employee is governed by the procedures contemplated under Rule 9, termination of service under Explanation (vii) (c) to Rule 6 is not applicable when admittedly no agreement has been entered into. Even if executed, then 3 months notice becomes mandatory. As such, in either case the order of reversion is bad and suffers from arbitrariness and lack of providing opportunity.



51. At this juncture, it is apposite to refer the decision relied on by the appellant in the case of ***Ashok Kumar Ratilal Patel v. Union of India*** reported in **(2012) 7 SCC 757** wherein the Hon'ble Supreme Court had dealt with the difference in respect of appointment on deputation and transfer on deputation. It is held that a person who applies for appointment on deputation has an indefeasible right to be treated fairly and equally and once such person is selected and offered with the letter of appointment on deputation, the same cannot be cancelled except on the ground of non-suitability or unsatisfactory work. Relevant portion of the said judgment is extracted hereunder:-

“14. However, the aforesaid principle cannot be made applicable in the matter of appointment (recruitment) on deputation. In such case, for appointment on deputation in the services of the State or organisation or State within the meaning of Article 12 of the Constitution of India, the provisions of Article 14 and Article 16 are to be followed. No person can be discriminated nor is it open to the appointing authority to act arbitrarily or to pass any order in violation of Article 14 of the Constitution of India. A person who applies for appointment on deputation has an indefeasible right to be treated fairly and equally and once such person is selected and offered with the letter of appointment on deputation, the same cannot be cancelled except on the ground of non-suitability or unsatisfactory work.



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15. The present case is not a case of transfer on deputation. It is a case of appointment on deputation for which advertisement was issued and after due selection, the offer of appointment was issued in favour of the appellant. In such circumstances, it was not open for the respondent to argue that the appellant has no right to claim deputation and the respondent cannot refuse to accept the joining of most eligible selected candidate except on ground of unsuitability or unsatisfactory performance.”

52. In the instant case also, the appellant being found meritorious and suitable by the Selection Committee in open competition, had been selected and appointed through deputation for a period of 5 years and the appellant has an indefeasible right to be treated fairly. Even though the letter of appointment on deputation could be cancelled on the ground of unsuitability or unsatisfactory work, still the University is bound to treat the appellant fairly by providing reasonable opportunity and conduct the proceedings in a fair manner to arrive at a conclusion.

53. As referred earlier, no notices have been issued nor was the appellant put on notice affording an opportunity to put forth his explanation



and in such circumstances, the impugned decision fails to muster the test of fairness and reasonableness.

54. Further no adverse remarks or any lacunae on the part of the appellant was ever communicated to the appellant and admittedly no such proceedings or letters sent to the appellant is referred to in the impugned order and the manner in which an urgent meeting was called for only at 2.30p.m. and the meeting was conducted at 3.30 p.m. in which all of a sudden a decision was taken to relieve the appellant, which contained several adverse remarks which was not addressed or communicated to the appellant at any point of time.

55. In this regard, the decision of the Hon'ble Supreme Court in the case of *Dev Dutt v. Union of India* reported in *(2008) 8 SCC 725* refers to developing the principles of natural justice by holding that fairness and transparency in public administration requires that all entries in ACR must be communicated to the delinquent within a reasonable period so that he can make a representation for its upgradation. In this, para 36 of the decision is extracted hereunder:-



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“36. In the present case, we are developing the principles of natural justice by holding that fairness and transparency in public administration requires that all entries (whether poor, fair, average, good or very good) in the annual confidential report of a public servant, whether in civil, judicial, police or any other State service (except the military), must be communicated to him within a reasonable period so that he can make a representation for its upgradation. This in our opinion is the correct legal position even though there may be no rule/G.O. requiring communication of the entry, or even if there is a rule/G.O. prohibiting it, because the principle of non-arbitrariness in State action as envisaged by Article 14 of the Constitution in our opinion requires such communication. Article 14 will override all rules or government orders.”

56. Further we are in agreement with the arguments raised by the learned senior counsel for the appellant that when an order of termination is passed causing a stigma, then mandatorily an enquiry has to be conducted before passing the same. In this case, since the appellant had been selected and appointed as Registrar by deputation and he is relieved from his services and repatriated to the parent department, it would eventually mean to terminate his services from the post of Registrar and when the order attaches civil consequences more particularly a stigma on the career of the appellant wherein several references are made in the resolution passed by the



executive council, the decision arrived at without conducting a proper enquiry more so without even putting the appellant on notice affording an opportunity to explain, cannot be rectified and the order cannot be sustained by simply directing the University to delete the adverse entries made in the impugned resolution which alone will not be a remedy to the unjustified action of the University.

57. Insofar as the other submissions made and the decisions relied on by the learned Senior Counsel for the appellant that the tenure cannot be curtailed, as referred in the above decision itself, employer is entitled to cancel the appointment in case of unsatisfactory performance and non suitability. Now when the University had decided to relieve the appellant from the services mainly on the ground of unsatisfactory work which is revealed through the impugned resolution, the argument putforth that the tenure of the period cannot be curtailed cannot be sustained. However, any such decision taken to prematurely cancel the assignment must be in accordance with the provisions contained in the Statute and following due fair and reasonable process by complying with the principles of natural justice.



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58. Further since the appellant is in the services of the Central Government and his services are protected under Article 311 of the Constitution, the impugned order whereby the appellant is relieved from the service of Registrar tantamounting to termination without conducting a proper enquiry and affording reasonable opportunity is violative of provisions of the Constitution and stands vitiated.

59. Even as per the proceedings of the University, the appellant is governed by the DoPT guidelines since he is in the services of the Union presently on deputation and the guidelines mandate issuance of 3 months notice before premature cancellation of the deputation or repatriation. In this case, admittedly this procedure has not been followed.

60. In view of the above deliberations, we have no hesitation to come to the conclusion that the impugned order relieving the appellant from the services of Registrar of the University based on the resolution of the executive council cannot be sustained for the aforesaid reasons. Now it is brought to our notice that on repatriation, the appellant had been relieved



from the University and he had also joined in his parent department at Tagore Government Arts and Science College, Pondicherry and further it is also brought to the notice that a fresh recruitment notification has been issued calling for applications to fill up the post of Registrar which goes to show that till date the post of Registrar remains vacant. When we have come to the categorical conclusion that the order relieving the appellant from the post of Registrar is not justified, then the automatic corollary would be to put back the appellant in the services of the University as Registrar and allow the University to undertake the proceedings in accordance with law. Since on repatriation the appellant had been working in the service of the parent department, he will not be entitled for any backwages for this period.

61. It is made clear that it is for the University to decide as to whether to allow the appellant to complete his tenure as per the original order of appointment or to conduct proceedings in compliance with the provisions of the Statute and in accordance with law, to take a fresh decision in this regard.



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62. The Union Territory of Puducherry shall pass necessary orders to give effect to this order by allowing the appellant to get relieved and report before the University to resume his duties as Registrar.

63. The needful as indicated above to be done within a period of four (4) weeks from the date of receipt of a copy of this order.

64. In view of the same, the order of the writ court is set aside and the Writ Appeal stands ***allowed*** with the aforesaid directions. Consequently, connected Miscellaneous Petition is closed. No costs.

[A.S.M.J.,] [G.A.M.J.,]
19.02.2025

Speaking order
Index : Yes
Neutral Citation : Yes

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To

1. The Secretary to Government,
Government of India,
Ministry of Human Resource Development (MHRD),
Department of Higher Education,
Shastri Bhawan, New Delhi.
2. The Secretary to Government,
Higher and Technical Education Department,
Chief Secretariat, Puducherry.
3. Dr. Gurumeetsingh,
The Vice Chancellor cum Chairman of Executive Council,
Pondicherry University,
R. Venkatraman Nagar, Kalapet, Puducherry - 605 014.
4. The Vice Chancellor cum Chairman of Executive Council,
Pondicherry University,
R. Venkatraman Nagar, Kalapet, Puducherry - 605 014.
5. The Deputy Registrar (Administration)
Pondicherry University,
R. Venkatraman Nagar, Kalapet, Puducherry - 605 014.
6. Dr. B. Chitra,
Controller of Examination (I/c),
Pondicherry University,
R. Venkatraman Nagar, Kalapet, Puducherry - 605 014.
7. The President,
Pondicherry University SC/ST Employees Welfare Associations,
Pondicherry University,
R. Venkatraman Nagar, Kalapet, Puducherry - 605 014.
8. The Director,
Central Bureau of Investigation,
Chennai.

Dr. ANITA SUMANTH, J.



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W.A.No.1190 of 2022

AND
G.ARUL MURUGAN, J.

sri

Pre-Delivery Judgment made in
W.A.No.1190 of 2022
and C.M.P.No.7517 of 2022

19.02.2025