



WEB COPY

W.P.No.39149



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2025

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.39149 of 2015

and

M.P.No.1 of 2015

M.A.B.M.Mohideen Khadir Ali

... Petitioner

Vs.

1. The Vice Chancellor,
Annamalai University,
Annamalai Nagar – 608 002.

2. The Registrar, Annamalai University,
Annamalai Nagar – 608 002.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records of the second respondent relating to the office memorandum Nos.C9/2012 dated 20.01.2012, C9/2013 dated 17.06.2013 and C9/2013 dated 03.07.2013 and quash the same as illegal and arbitrary and consequently direct the respondents to pay for the period from 27.10.2003 to 18.01.2005 and 23.08.2005 to 03.01.2012 and to grant all consequential service benefits, such as, increments, promotions applicable to teaching cadre.



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For Petitioner : M/s.N.Nithianandam

For Respondents : Mr.S.Sithirai Anandam

ORDER

This writ petition has been filed seeking a writ of certiorarified mandamus to call for the records relating to office memorandum bearing No.C9/2012 dated 20.01.2012, No.C9/2013 dated 17.06.2013, and No.C9/2013 dated 03.07.2015, and to quash the same. The petitioner also sought for consequential direction to the respondents to pay salary for the period from 27.10.2003 to 18.01.2005 and from 23.08.2025 and 03.01.2012. Through the impugned proceedings, the period during which the petitioner was out of service due to placing him under suspension by the respondent University was treated as either leave on 'Loss of Pay' or 'Medical Leave' or 'Earned Leave' to which the petitioner is entitled.

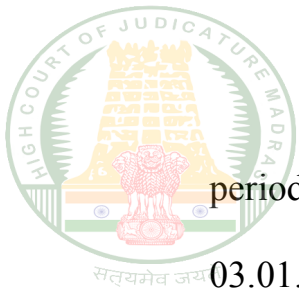
2. The petitioner, while working as a 'Lecturer' in the respondent University, was initially placed under suspension on 10.11.2003 through proceedings dated 10.11.2003 with effect from 20.07.2003 due to involvement of the petitioner in a criminal case. Thereafter, the petitioner was reinstated into service through the proceedings dated 12.01.2005 in view of the closure of the



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criminal case. Thereafter, once again, the petitioner was placed under suspension through proceedings dated 29.08.2005, in view of the involvement of petitioner in a criminal case. While so, the petitioner herein was convicted in the criminal case lodged by his wife in C.C.No.363 of 2005 by an order dated 01.11.2006. The said conviction dated 01.11.2006 was confirmed in C.A.Nos.147 & 149 of 2006 by the learned Additional Sessions Judge, FTC II, Thoothukudi, by an order dated 19.12.2007. Aggrieved thereby, the petitioner herein filed CrI.RC (MD) Nos.61 & 62 of 2008 and whereas the wife of the petitioner filed CrI.RC (MD) No.292 of 2011. All the said criminal revision cases were disposed of by this court by an order dated 05.09.2011 in terms of the compromise arrived at between the petitioner and his wife resulting in honourably acquitting the petitioner from the criminal case.

3. It was thereafter, the petitioner approached the respondent University and accordingly, the suspension was revoked by orders dated 22.12.2011 and he was allowed to join duty. Accordingly, he joined duty on 03.01.2011. While issuing the said revocation orders dated 22.12.2011 itself, the suspension period from 23.08.2005 till rejoining the duty was ordered to be treated as leave on 'Loss of Pay', and the petitioner joined duty on 03.01.2012. It was thereafter, the



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period of suspension i.e., from 27.10.2003 to 18.01.2005 and 23.08.2005 to 03.01.2012 was regularized treating the same as leave on 'Loss of Pay' through Office Memorandum bearing No.C9/2012 dated 20.01.2012. Further, the leave availed by the petitioner from 20.04.2013 to 04.05.2013, which he requested to be treated as 'Medical Leave', was rejected and the said period was also treated as leave on 'Loss of Pay' as there was no medical leave available to the credit of the petitioner. So also, both the periods i.e., 28.02.2013 to 09.03.2013 and 18.03.2013 to 23.03.2013 were also treated as leave on 'Loss of Pay'. Aggrieved by these three proceedings dated 20.01.2012, 03.07.2013 and 17.06.2013, the petitioner approached this court by filing the present writ petition.

4. The learned counsel for the petitioner contended that, in terms of Rule 54 of the Fundamental Rules, a Government servant who was suspended and thereafter fully exonerated from the charges on appeal, the suspension period shall be treated as 'on duty' and shall be entitled to pay and allowances for the entire period of suspension. He also placed reliance on an order passed by a Co-ordinate Bench of this court dated 23.12.2023 in W.P.No.29898 of 2022. He further contended that, as the petitioner is now stood exonerated from all the criminal charges, he is also entitled to full pay and allowances for the entire



period of suspension shall be treated as 'on duty'.

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5. On the other hand, the learned counsel appearing for the respondent University contended that the period of suspension was ordered to be treated as leave on 'Loss of Pay' while revoking the suspension through University order dated 22.12.2011, and therefore, the petitioner is not entitled to seek the relief as sought for in the present writ petition without there being any challenge to the University order dated 22.12.2011.

6. This court has carefully considered the submissions made on either side and also perused entire material on record.

7. The contention of the learned counsel for the petitioner by placing reliance on Rule 54 of the Fundamental Rules, absolutely has no application to the facts of the case on hand. Here is a case where the petitioner was placed under suspension due to his involvement in a criminal case at the instance of his wife. The petitioner has not chosen to challenge the orders of suspension at any point of time. Admittedly, the respondent University is no way responsible for



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registration of the criminal case against the petitioner. Admittedly, the petitioner was convicted by the learned Trial Court and the same was also confirmed by the learned Sessions Court. However, the said conviction came to be set aside by this court only in the light of the compromise arrived at between the petitioner and his wife. Therefore, the respondent University cannot be made responsible for payment of wages etc., for the period during which the petitioner was out of employment.

8. Rule 54 of the Fundamental Rules deals with the departmental proceedings but not with regard to criminal proceedings. Once the criminal proceedings were pending, in terms of the relevant Rules, the petitioner is not entitled to continue in service and was rightly placed under suspension. As already noted above, the orders of suspension was never under challenge. In these circumstances, this court does not find any error or illegality in the impugned orders passed by the respondents, that too, when the petitioner has already accepted the University order dated 22.12.2011 and joined duty.

9. Accordingly, the writ petition is dismissed. No costs. Connected miscellaneous petitions, if any, shall stand closed.



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10. Insofar as the contention of the learned counsel for the petitioner that the petitioner is not paid subsistence allowance for the period of suspension is concerned, this court is not inclined to deal with the matter, as no relief is sought with regard to the same in the present writ petition. However, it is left open to the petitioner to submit a representation before the respondents for payment of subsistence allowance, if any, he is entitled to. In case if any such representation is submitted within a period of six weeks from the date of receipt of a copy of this order, the respondents shall consider the same and pass appropriate order thereon in accordance with law within a further period of six weeks thereafter.

07.07.2025

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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MUMMINENI SUDHEER KUMAR, J.

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