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W.A.Nos.1722 and 1723 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	09.07.2025
Pronounced on	16.09.2025

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.A.Nos.1722 and 1723 of 2022 and
C.M.P.Nos.12394 and 12399 of 2022

1. The Executive Council,
Indian Maritime University,
East Coast Road, Uthandi,
Chennai-600 119.

2. Indian Maritime University,
Rep. by its Vice Chancellor,
East Coast Road, Uthandi,
Chennai-600 119.

... Appellants/R2 & R3 in both cases

-VS-

1. Dr.P.Vijayan

... 1st Respondent/Petitioner in both cases

2. The Union of India,
Rep. by its Secretary to Government,
Department of Shipping,
Transport Bhavan, No.1, Parliament Street,
New Delhi – 110 001.

... 2nd Respondent/Respondent in both cases

Common Prayer: Writ Appeals are filed under Clause 15 of the Letters Patent, seeking to set aside the common impugned order in W.P.Nos.12768 and 12769 of 2018 dated 01.04.2022.



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For Appellants : Mr.R.Sankaranarayanan
Senior Counsel
For Mr.Ramaswamy Meyyappan

For R1 : Mr.R.Viduthalai
Senior Counsel
For Mrs.Revathy

For R2 : Mr.G.Ilangovan
Senior Panel Counsel

COMMON JUDGMENT

(By J.Nisha Banu,J.)

A challenge in these Writ Appeals is to the common order dated 01.04.2022 passed in W.P.Nos.12768 and 12769 of 2018, by which, the Writ Petitions challenging the dismissal order as well as the imposition of penalty were allowed.

2. For the sake of brevity, the parties would be referred to as the 'Writ Petitioner and the 'Appellants'.

3. Minimum facts put forth by the Writ Petitioner that are required for deciding the cases are as follows:



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3.1. It is the case of the Writ Petitioner / 1st respondent herein

that he was appointed as the First Vice Chancellor of the Indian Maritime University for a period of three years from 20.11.2008 to 19.11.2011 and after expiry of three years, he was inducted as the Director of Chennai Campus of Indian Maritime University from 20.11.2011. While so, he was suspended from service with an ulterior motive on the allegations of accumulation of disproportionate wealth as well as for causing loss to the University to the tune of Rs.22,65,469.42. In respect of the 1st charge, a charge memo dated 16.09.2016 came to be issued pending criminal proceedings in respect of i) non-intimation of large number of transactions of sale and purchase of immovable properties and huge borrowings and ii) non-intimation of declaring income under the voluntary disclosure scheme.

3.2. The Writ Petitioner submitted his explanation to the 1st charge on 12.10.2015, stating the alleged purchase and sale of immovable properties and disclosure of income under the voluntary disclosure scheme was done during the period from 01.03.1995 to 31.01.2008, viz., much prior to his appointment as the Vice Chancellor of the Indian Maritime



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University. In respect of the 2nd charge, an enquiry was conducted and after conclusion of the enquiry, the Writ Petitioner was dismissed from service on 26.04.2018, which was questioned in W.P.No.12768 of 2018. The order of imposition of penalty to the tune of Rs.22,65,469/- was challenged in W.P.No.12769 of 2018. Finding no merits in both orders, learned Single Judge allowed both Writ Petitions by way of a common order, holding that the alleged misconduct was related to the year 1997 and the subsequent years, prior to his appointment as the Vice Chancellor and as such, it could not be cited as the basis for disciplinary proceedings by the University. It was further held that there was a wrong invoking of provisions under Chapter 7 of the University Teaching and Non-Teaching Employees (Terms and Conditions of Service) Rules (in short the 'UTNTE Rules') against the Vice Chancellor and an Officer of the University.

3.3. According to the Writ Petitioner, when the Enquiry Officer found the charges to be not proved, the appellants cannot thrust its predetermined decisions of dismissal from service without affording an opportunity of hearing to the Writ Petitioner, especially when the period in



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question does not fall within the category of misconduct at all. Learned Single Judge also observed that the order of imposition of penalty under UTNTE Rules will not apply, as the Writ Petitioner cannot be treated as an employee of the University. It was further strongly observed by the learned Single Judge that the appointment of the Writ Petitioner as Vice Chancellor was independently made by the President of India and the Indian Maritime University was established only on 11.11.2008 and therefore, the Rule applicable to an employee will not apply to the Officers like that of the Writ Petitioner.

3.4. There were several irregularities in passing the orders of dismissal from service and imposition of penalty, as there was no concrete reason adduced for disagreeing with the findings of the Enquiry Officer and the order of disagreement had not been furnished to the Writ Petitioner. Therefore, the learned Single Judge rightly observed that the manner in which both orders impugned in the Writ Petitions passed stands vitiated. It was finally stated that since the appointment of the 1st respondent as Campus Director was a fresh appointment, he is entitled to continue in



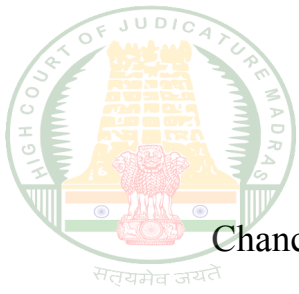
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service till the age of 65 years, which cannot be faulted with and therefore,

it was prayed that both Writ Appeals are liable to be dismissed.

4. It is submitted by the appellants that pursuant to the CBI raid, it was revealed that the Writ Petitioner was in possession of assets disproportionate to his known sources of income and therefore, a charge sheet in C.C.No.18 of 2014 was laid before the CBI Court and the same is pending. Consequent to the registration of a criminal case, the Writ Petitioner was placed under suspension and it was also discovered that the Writ Petitioner misused the funds of the University. The misconducts committed by the Writ Petitioner culminated into the one of dismissal from service and imposition of minor penalty of Rs.22,65,469/-.

4.1. It is further submitted by the appellants that the Writ Petitioner was the Director of the erstwhile National Maritime Academy, Chennai and therefore, he was a society Employee within the meaning of Section 49(ii) of IMU Act, pursuant to his induct into service on 14.11.2008, when IMU was created. After demitting his office as Vice



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Chancellor, he was posted back to his substantive post of Director, Chennai

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Campus. Consequent to the criminal case, the petitioner was suspended from service, which was challenged before the Central Administrative Tribunal in O.A.No.544 of 2018, in which the representation of Writ Petitioner was directed to be considered, but, however, upon consideration of the representation, a decision was taken not to revoke the order of suspension and he was under suspension till the date of removal from service.

4.2. According to the appellants, it was proposed to initiate proceedings under Minor Penalty for misuse of official cars for private use and unauthorized engagement of security, house keeping and garden personnel for his private use. Further, disciplinary proceedings for major penalty were also initiated for non-intimation of large number of transactions of sale and purchase of immovable properties and so on. However, learned Single Judge set aside the impugned orders passed against the Writ Petitioner and allowed both Writ Petitions. Aggrieved by the same, the appellants are before this Court.



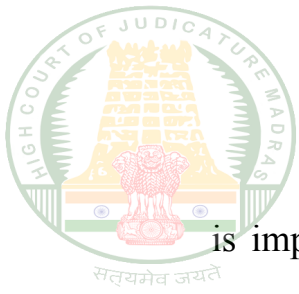
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4.3. The appellants assailed the common order of the learned

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Single Judge on the ground that the Writ Petitioner, having stated on one hand that he comes under the purview of Section 49 (ii) of IMU Act, cannot subsequently make a u-turn to state that he has not exercised his option of being governed under the terms and conditions of NMA. The Writ Petitioner was absorbed into IMU by operation of Section 49(ii) and is a Society Employee till date. In case his appointment is to be treated as an appointment made by the Ministry under Section 49 (i), it would be considered as an appointment on deputation basis as per foreign service terms and conditions and he would be eligible for benefits enjoyed by Central Government employees like Pension, etc., which is not the case herein. His appointment cannot also be treated as a fresh appointment by the Ministry under Section 49 (iii), as such provision stipulates certain criteria to be followed for appointment.

4.4. According to the appellants, the Writ Petitioner falls under Section 49(ii) of IMU Act and therefore, his date of retirement would be 60 years as per Clause 7 of the Terms of Employment of the Writ Petitioner. It



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is impermissible for the petitioner to seek refuge under Section 49(iii) to contend that his age of retirement is 65 years as per IMU Rules. Since the Writ Petitioner falls under Section 49(ii) of IMU Act, he is to be treated as a Central Government / Ministry employee and as such, his age of retirement is only 60 years instead of 65 years. Insofar as the plea of not following the principles of natural justice is concerned, all testimonials were drawn from ex-drivers to corroborate the point and more so, despite the grant of ample opportunities to establish his entitlement of a second vehicle, the Writ Petitioner had not chosen to give any reply on merits in respect of the past illegalities. The finding of the learned Single Judge that the Writ Petitioner could not have been proceeded under the provisions of the University Teaching and Non-Teaching Employees (Terms and Conditions of Service) Rules, is contrary to the order dated 26.04.2018 of the Executive Council, which contemplates that “Ministry of Shipping has clarified on 11.04.2018 that the Executive Council is competent to impose penalties”.

4.5. It was put forth by the Appellants that there was no reasoning given by the learned Single Judge to set aside the order of

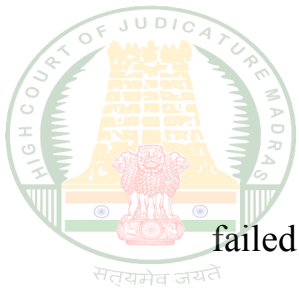


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penalty, except saying that after completion of the tenure, the IMU should have withdrawn such facility from the petitioner. It is pertinent to mention here that by the time the distillement of the petitioner was found, he had incurred huge sums of money to the tune of Rs.22,65,469/-. Even though the order of removal from service was set aside, the suspension order was on the basis of the pending matters before the CBI Court, Chennai. The Writ Petitioner, who had voluntarily withheld vital financial information concerning his past dealing from the University, is permitted to be benefited, it will have severe repercussion, affecting the fame of the University itself and therefore, it was prayed that the common order of the learned Single Judge is liable to be set aside.

5. Learned Senior Counsel for the appellants submitted that the credential value of the University would be at stake, if a Director, who was charged with the offence of corruption by the CBI and was suspended for his misuse of power, is reinstated into service. The Writ Petitioner was called upon to offer a suitable explanation by appearing before the Executive Council on several dates and it was the Writ Petitioner, who



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failed to obey the instructions of the Executive Council. The misconduct committed by the Writ Petitioner was grave in nature, for which, the dismissal from service is proportionate to the seriousness of the charges proved on the principles of doctrine of proportionality. Judicial precedents require that in a case of proven misconduct, especially where integrity, discipline or public trust is compromised, the major punishment of dismissal from service is the appropriate punishment.

6. Learned Senior Counsel for the appellants further submitted that there is a much distinction between the provisions of Clauses (i) and (ii) of Sections 49. As per Section 49(ii), the Writ Petitioner continued to be treated as a Society Employee after absorption, not as a regular Government employee. Since the appointment of the Writ Petitioner was not with respect to deputation under foreign service, he would come under the purview of Section 49 (ii) of IMU Act only, as per which, the retirement age is 60 years. For the sake of convenience, Section 49 (i) and (ii) of IMU Act is extracted hereunder:



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“49. Transfer of assets and options of the employees.

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Notwithstanding anything contained in this Act, or in the Statutes or the Ordinances, consequent upon merger of the Training Ship Chanakay, Mumbai, the Marine Engineering and Research Institute, Mumbai, the Marine Engineering and Research Institute, Kolkata, Lal Bahadur Shastri College of Advance Maritime Studies, Mumbai, the National Maritime Academy, Chennai, Indian Institute of Port Management, Kolkata and the National Ship Design and Research Centre, Visakhapatnam into the Indian Maritime University, all the assets and employees shall stand transferred to the University and such employees shall have the following options:

i) the employees of the four training institutes under Indian Institute of Maritime Studies who shall stand transferred to Indian Maritime University shall have the option to continue on deemed deputation in Indian Maritime University on the terms and conditions in force of the Central Government and also continue to retain or to be allotted government residential accommodation on turn and avail of the Central Government Health Scheme facilities till their retirement;

ii) the employees of the National Maritime Academy, Chennai, Indian Institute of Port Management, Kolkata and the National Ship Design and Research Centre, Visakhapatnam shall have the option to continue on the terms and conditions of their respective institutes till their retirement; and

iii) all employees shall have the option to join University as per the service conditions of the University.”

7. It was argued by the learned Senior Counsel for the appellants that as per the settled position of law, the quantum of punishment imposed by the disciplinary authority cannot be slightly interfered with by



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the Courts, unless it is shockingly disproportionate to the misconduct. Since the Writ Petitioner had swindled the exchequer money, it cannot be said that the punishment of dismissal from service is shockingly disproportionate and therefore, the punishment is just, reasonable and legally sustainable.

8. Per contra, learned Senior Counsel appearing for the 1st respondent contended that the primary charges related to non-intimation of property and disclosure of assets for the period, which was prior to his appointment as Vice Chancellor, falling outside the scope of University Rules. Since his appointment as Campus Director was a fresh appointment, he is entitled to continue his service till the age of 65 years as per Statutory Rules. He further contended that there were multiple irregularities marred the dismissal processes and there was no specific justification for disagreeing with the Enquiry Officer's findings. Therefore, it was rightly observed by the learned Single Judge that the process passing the impugned orders was vitiated on account of procedural lapses. The charge memo dated 16.09.2016 was issued post haste with pending criminal proceedings



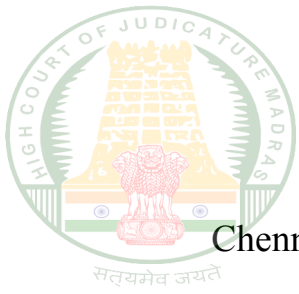
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over the Writ petitioner's head like the sword of Damocles for the alleged misconduct. The petitioner did not attempt to shy away to submit a comprehensive explanation on 12.10.2015, expressly making it clear that the alleged transactions occurred much earlier. It was contended that having considered the matter in all its broad spectrum, learned Single Judge rightly found that the impugned orders passed against the Writ Petitioner were built on shifting sands and therefore, the common order passed by the learned Single Judge does not withstand judicial scrutiny. Thus, it was prayed that both Writ Appeals are liable to be dismissed.

9. Heard the learned Senior Counsel for the appellants, learned Senior Counsel appearing for R1, learned Senior Panel Counsel for R2 and perused the material documents available on record.

10. The Writ Petitioner / 1st respondent herein was engaged as the First Vice Chancellor of the Indian Maritime University for a period of three years from 20.11.2008 to 19.11.2011. At the end of expiry of the tenure, he was posted as the Director of Indian Maritime University,



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Chennai Campus with effect from 20.11.2011. Alleging irregularities

committed by the Writ Petitioner to the extent that there was accumulation of wealth disproportionate to his known wealth and he was the mainspring for monetary loss to the University to the tune of Rs.22,65,469.42, he was placed under suspension. The Writ Petitioner submitted his explanation on 12.10.2015 to the 1st charge dated 16.09.2016, stating that the alleged purchase and sale of immovable properties and disclosure of income under the voluntary disclosure scheme was much prior to his appointment as the Vice Chancellor of the Indian Maritime University. The period of assessment fell between 01.03.1995 and 31.01.2008. After a full-fledged enquiry, the Writ Petitioner was removed from service on 26.04.2018, which was the subject matter in W.P.No.12768 of 2018. The yet another order of imposition of penalty to the tune of Rs.22,65,469/- was questioned in W.P.No.12769 of 2018. Both Writ Petitions ended in favour of the Writ Petitioner / 1st Respondent herein by way of a Common Order dated 01.04.2022. Aggrieved by the decision of the Writ Court, the Respondents 2 & 3 in the Writ Petition have filed the present Writ Appeals.

11. Learned Single Judge found the dismissal and penalty



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orders passed against the Writ Petitioner as 'built on shifting sands' and declared that the action of the University falls flat, if it is examined under the statutory interpretation. It was observed that the purported misconduct was water under the bridge, having occurred before the Writ Petitioner's appointment as Vice Chancellor.

12. It is to be noted that the disciplinary proceedings initiated by the University were found to have turned a blind eye to the principles of natural justice and stringent punishment was given without any rhyme or reasons. The manner in which disagreement with the Enquiry Officer's findings was handled creates a cloud of suspicion in the minds of the Court, which vitiates the entire process, besides making a mockery of the rule of law. There was no solid justification for disregarding the Enquiry Officer's report and it may merely be termed as 'standing on thin ice'. The charge memo was issued hastily, pending criminal proceedings. The foundation for the disciplinary action was fundamentally weak and unstable, lacking any enduring legal basis.

13. The application of Rules relating to employees, viz., the



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University Teaching and Non-Teaching Employees (Terms and Conditions of Service) Rules to the 1st respondent herein, who was an Officer, is highly

misconceived. The appellants lost sight of the fact that the appointment of 1st respondent herein as the First Vice Chancellor was an independent act by the President of India, distinct from routine employment under the University and the ordinary Rules applicable to other employees of University cannot be invoked against the Writ Petitioner herein. Hence, the rigid imposition of Section 49(ii) of the Rules was not only misguided, but also legally untenable.

14. The alleged infractions noted by the appellants based on the raid of the CBI that the acquisition of immovable properties and disclosure under a voluntary income scheme unfolded entirely before 2008, while the 1st respondent assumed the Office of Vice Chancellor on 20.11.2008. This stark temporal disconnect renders the charges not merely tenuous, but wholly misplaced. There is a flaw in the action of the appellants, which goes against the settled proposition of law that the disciplinary jurisdiction of an employer cannot extend to acts, preceding a



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person's appointment and therefore, there is a fundamental miscarriage of process. Thus, the proceedings stand exposed as '*per se* bad in law' and approving the irregular procedural act of the appellants will certainly amount to sanctioning a form of retroactive disciplinary adverturism. Therefore, we are of the view that there is absolutely no ground made out by the appellants to interfere with the common order of the learned Single Judge, as the Writ Court took a dim view of the arguments put forth by the appellants before it and found that there was inconsistency and lack of substance in the argument of the appellants.

15. In the result, these Writ Appeals are dismissed. No costs.

Consequently, connected Miscellaneous Petitions are closed.

(J.N.B.J.,) (M.J.R,J.,)
16.09.2025

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The Secretary to Government,
Union of India,
Department of Shipping,
Transport Bhavan,
No.1, Parliament Street,
New Delhi – 110 001.

J.NISHA BANU, J.

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AND
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PRE-DELIVERY JUDGMENT IN
W.A.Nos.1722 and 1723 of 2022

16.09.2025