



W.P.No.35440 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2025

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P.No.35440 of 2019
and W.M.P.No.36271 of 2019

A.Kalaiarasan,
S/o.A.Alagarasan
Mookkanurppatti,
Sandapatti Post,
Harur Taluk,
Dharmapuri District – 635 305.

... Petitioner

Vs.

1. The Registrar,
Annamalai University,
Annamalai Nagar,
Chidambaram – 608 305.

2. The Dean,
Faculty of Science,
Annamalai University,
Annamalai Nagar,
Chidambaram – 608 002.

3. The Head of the Department,
Division of Computer & Information Sciences,
Annamalai University,
Annamalai Nagar,
Chidambaram – 608 002.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India



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for issuance of Writ of certiorarified mandamus to call for the records pertaining to the proceedings in University Order No.09/2019 (C) dated 23.01.2019 on the file of the first respondent and quash the same as illegal, incompetent and ultravires and consequently direct the respondents to reinstate the petitioner in the post of Assistant Professor in the respondent University.

For Petitioner : Mr.R.Singaravelan
Senior Counsel
for Mr.R.Jayaprakash

For Respondents : Mr.E.C.Ramesh
Standing Counsel, Annamalai University

ORDER

This writ petition has been filed challenging the proceedings of the first respondent in University Order No.09/2019 (C) dated 23.01.2019 and consequently to direct the respondents to reinstate the petitioner in the post of Assistant Professor in the respondent University.

2. The petitioner was appointed as Assistant Professor / Programmer in the first respondent University on 10.02.2023. The petitioner applied for medical leave from 23.07.2017 to 24.11.2017. On 22.11.2017 the petitioner was directed to appear before the Medical Board for ascertaining genuineness of the reason stated to avail medical leave.

3. The petitioner has submitted that he was not well and hence he would



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not appear before the medical board; on 25.11.2017, the petitioner appeared before the first respondent with medical certificates to join duty and at that time the first respondent informed the petitioner to appear in the next counselling before the Medical Board and ascertain his fitness to join duty; thereafter, the petitioner did not receive any call letter to appear before the Medical Board; on 05.04.2018, the petitioner was directed to appear before the first respondent to explain his absence from duty and for non-appearance before the Medical Board; on 12.04.2018 the petitioner had sent a representation to express his willingness to join duty; on 30.04.2018 a charge memo has been issued against the petitioner which was culminated charge of punishment of dismissal from service.

4. Mr.R.Singaravelan, the learned Senior Counsel for the petitioner, submitted that the petitioner has been sanctioned with medical leave from 24.07.2017 to 24.11.2017, but he was asked to appear before the medical board on 22.11.2017; as the petitioner was not well, he was not able to appear before the medical board, instead on 25.11.2017 he approached the first respondent with all the medical certificates to join duty; the petitioner has been sanctioned with '*leave on loss of pay*' between the period from 22.10.2018 to 21.10.2020, but in the interregnum he was dismissed from service on 23.01.2019 which is



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5. Mr.E.C.Ramesh, the learned Standing Counsel for the respondents, submitted that the petitioner had applied leave from 24.07.2017 to 24.11.2017 and thereafter he did not report duty and hence he was referred to Medical Board; he failed to appear before the Medical Board on 22.11.2017 and further he has not offered any explanation for the charges framed against him; even before the Enquiry Committee the petitioner did not appear and hence based on the records, the Enquiry Committee has sent a report stating that the charges against the petitioner are proved; as the petitioner was on frequent leave and absent from duty and all charges have been proved against him, the Syndicate passed a resolution by dismissing the petitioner from service.

6. On perusal of the records it is seen that the petitioner had applied leave for the period from 24.07.2014 to 24.11.2017. The petitioner has been called upon to offer his explanation by furnishing the memo dated 05.04.2018 in which it is alleged that the petitioner did not turn up for duty till 05.04.2018 on the day on which the memo is issued and he did not appear before the Medical Board also as instructed on 22.11.2017. The petitioner had given his explanation on 12.04.2018 stating that he got the communication only on 23.11.2017 and hence



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he could not appear before the medical board. According to the petitioner he joined duty on 25.11.2017 along with medical certificates but charges have been framed against him on 30.04.2018. In fact the petitioner was once again asked to appear before the medical board on 18.04.2018 also. It would have saved the life of the petitioner had he appeared before the Medical Board at least in pursuant to the intimation sent to him on 18.04.2018. For the reasons best known to the petitioner, he did not appear before the Medical Board.

7. The University has taken a stand that the petitioner has been called upon to appear before the Medical Board for the leave which has already been expired on 24.11.2017. It may be probably because the petitioner continued to be absent without choosing to join duty. When the petitioner was asked to appear before the Enquiry Committee on 26.06.2018, even then he did not choose to appear before the Enquiry Committee. In fact the petitioner had requested to treat the period of absence from 22.10.2018 to 21.10.2020 as '*leave on loss of pay*'. The respondent University could have rejected the same if it is not feasible for consideration. Having granted the '*leave on loss of pay*' the petitioner was dismissed on 23.01.2019 on the allegation that the earlier charges have been proved.

8. So far as the charges are concerned, the petitioner's failure to join duty



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after the expiry of leave from 24.11.2017 can be considered to be proved with the own submissions of the petitioner himself. Even as per the communication of the respondents dated 18.04.2018, for the leave availed from 24.07.2017 to 24.11.2017 has been considered as medical leave. That can only be presumed that the leave has been granted. Having granted the leave, the above charge ought not to have been framed or even it is not granted, that would have been rectified later by passing appropriate orders.

9. For the third charge against the petitioner with regard to failure to appear before the Medical Board on 24.11.2017, the petitioner has stated that the order was communicated to him only on 21.11.2017 and during that time he was under Medical Leave and hence it was not possible for him to appear before the Medical Board. Under such circumstances the respondent University could have considered the records in a fair manner by not binding the petitioner for the charges 1 and 3.

10. So far as the second charge is concerned, it appears that the petitioner was in the habit of applying leave for two years on '*leave on loss of pay*' and that cannot be taken lightly. He has been given with the employment not only for his benefit but for the benefit of the students studying in the University. The



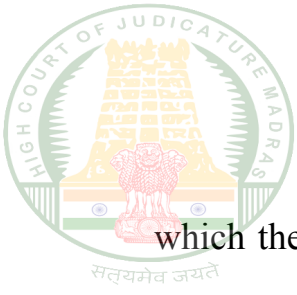
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respondent university could have rejected the request for '*leave on loss of pay*'

and then dismissed from service. But they have granted two years '*leave on loss of pay*' from 22.10.2018 and 21.10.2020.

11. In the order dated 23.01.2019 it is made clear that the petitioner has joined duty on 26.07.2018. The status of the petitioner from 25.11.2017 to 25.07.2018 is also not known and there is no explanation given by the petitioner for his absence to duty. The petitioner has been revealing the conduct of taking the duty lightly and he was an uncertain employee. Hence, the respondents cannot be compelled to keep his employment alive, though it did not serve the purpose.

12. Unfortunately, the first respondent has sanctioned leave between 22.10.2018 and 21.10.2020 without any condition. The above leave could have been granted subject to the outcome of the pending disciplinary proceedings against him. By granting '*leave on loss of pay*' and making him to believe that his service is protected until the expiry of '*leave on loss of pay*' which ends on 21.10.2020, it is not correct on the part of the respondents to dismiss the petitioner during the currency of the leave in the year 2019 itself. Just because the order of dismissal has been passed during the pendency of the period during



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which the petitioner was availing '*leave on loss of pay*' which has already been

granted, I feel the impugned order is liable to be quashed.

13. In the result the Writ Petition is allowed and the impugned proceedings of the first respondent in University Order No.09/2019 (C) dated 23.01.2019 is hereby quashed and the respondents are directed to reinstate the petitioner into the service, within a period of four weeks from the date of receipt of a copy of this order however without any backwages but with continuity of service and other benefits. If the petitioner was absent between the period from 25.11.2017 to 25.07.2018 that period can be regularized as per the discretion of the University by considering the said period either as '*leave on loss of pay*' or by adjusting the same in any other leave available in the credit of the petitioner. No costs. Connected miscellaneous petition is closed.

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Index : Yes/No

Neutral citation : Yes/No

Speaking Order/Non-Speaking Order

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R.N.MANJULA, J.

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