



L.P.A.(MD)No.2 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.12.2025

CORAM:

THE HONOURABLE **DR.JUSTICE G. JAYACHANDRAN**
AND
THE HONOURABLE **MR.JUSTICE K.K. RAMAKRISHNAN**

L.P.A(MD)No.2 of 2024

G.Subramanian

...Appellant/Petitioner

Vs.

- 1.Mangat Ram Sharma,
The Secretary,
Department of Higher Education,
Fort St.George,
Chennai-600 009
- 2.Jothi Venkateswaran,
The Director of Collegiate Education,
College Road, Chennai-600 006.
- 3.Baskaran
The Joint Director of Collegiate Education,
Madurai Region,
Madurai-625 020
- 4.T.R.Dhinakaran,
The Secretary,
Sri S.Ramasamy Naidu Memorial College,
Sattur, Virudhunagar District.

...Respondents/Respondents



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PRAYER:- Letters Patent Appeal filed under Section 15 of the Letters Patent Act, against the order passed in Cont.P(md)No.1730 of 2019 dated 08.03.2021 by this Court.

For Appellant : Mr.H.Arumugam
For R1 to R3 : Mr.J.Ashok,
Additional Government Pleader
For R4 : Mr.M.Mahaboob Athiff

JUDGMENT

(Judgment of the Court was made by **DR.G.JAYACHANDRAN, J.**)

The appellant herein was appointed as a Computer Science Lecturer in Sri S.Ramasamy Naidu Memorial College on 21.01.1991. However, the said appointment was not in a sanctioned post. When two posts in the college shall be taken in the year 1993, his candidature was considered positively by the Management and appointed him in the sanctioned post on 08.04.1996 and intimated the same to the Director of Collegiate Education for necessary approval. Unfortunately, he met with an accident on 26.09.1992 and in due course, his health got deteriorated leading to amputation of his left leg below knee on 03.07.2007, led to his absence from reporting duty. In his place, the Management has appointed another person to hope up the vacancy. In his place, the Management has appointed another person to cope up the vacancy.



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2.It is also to be noted that the request of the Management to approve the petitioner's appointment was not positively considered by the directorate. While fact being so, the appellant viz, Subramanian sustained amputation of his left leg below knee and he could not report duty for quite some time and realize that in his place somebody else being appointed, he filed a writ petition in W.P(MD)Nos.3152 and 3151 of 2009 with the following prayer:

“Prayer in W.P(MD)No.3151 of 2009 is to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the 4th respondent dated 16.08.2007 appointing A.Rajesh Khanna as Lecturer in Computer Science and the subsequent proceedings of the 3rd respondent Joint Director of Collegiate Education in Pa.Mu.No.12249/C2/2007 dated 08.04.2008 approving the appointment of the 5th respondent and the subsequent proceedings of the 2nd respondent Director of collegiate Education in Mu.Mu.No.33996/G2/07 dated 11.08.2008 confirming the appointment of the 5th respondent A.Rajesh Khanna, quash the same and further direct the 4th respondent college to reinstate the petitioner into service as Lecturer in Computer Science with all attendant benefits w.e.f 08.04.1996 and pass such further or other suitable orders.



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Prayer in W.P(md)No.3152 of 2009 is to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 2nd respondent Director of collegiate Education in Mu.Mu.No. 21256/Q4/2000 dated 17.01.2002 and the subsequent proceedings in O.Mu.No.29505/G2/2002 dated 23.02.2004 refusing approval to the appointment of the petitioner as Lecturer in Computer Science in the fourth respondent college, quash the same, and further direct the 2nd and 3rd respondents herein to approve forthwith the appointment of the petitioner as Lecturer in Computer Science in the fourth respondent college, w.e.f., the date of his appointment ie., 08.04.1996 and disburse the grant-in-aid towards his salary and allowance.

3.The learned single Judge, after considering the facts and counter filed by the Management as well as the State, has allowed the writ petition in W.P(MD)No.1819 of 2014 with the following observations:

“33.In the result both the writ petitions are disposed of in the following terms:

i. The order declining approval of the appointment of the petitioner with effect from 08.04.1996



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passed by the Government followed by the Joint Director of Collegiate Education in hereby set aside. The official respondents are directed to approve the appointment of the petitioner an Lecturer in the Department of Computer Science (with effect from 08.04.1996, such consequential order-shall be issued within a period of four weeks) from the date of receipt of a copy of this order.

ii. It is directed that the Education Department shall pay salary arrers for the petitioner for the period between 08.04.1996 to 16.08.2007) The said exercise shall be completed within a period of six months from the date of receipt of a copy of this order:

iii. It is further directed that the service of the petitioner shall be treated as continuous from 08.04.1996 till 30.09.2014 without any break. It is further clarified that the period between 16.08.2007 till the date of reporting for duty as per direction No.1, shall be treated as a duty period and the same shall not be treated as a break in service period.

iv. It is further directed that for the period between 16.08.2007 and the date of reporting for duty as per direction No.1, the pay scale and other monetary benefits of the petitioner shall be notionally calculated for the purpose of fixing the future salary and for this period, the petitioner shall not be entitled for arrears of salary and other monetary benefits.



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v. *The appointment of the 5th respondent shall be approved with effect from 11.08.2008 and the official respondents shall pass consequential order modifying the earlier order of approval thereby approving his appointment from 11.08.2008.*

vi. *It is further directed that though the appointment of the 5th respondent shall take effect from 11.08.2008, the salary and other monetary benefits already paid to the 5th respondent from 16.08.2007 till 11.08.2008 shall not be recovered from him;*

vii. *It is directed that the seniority of the petitioner shall be fixed with effect from 08.04.1996 whereas the seniority of the 5th respondent shall be fixed with effect from 11.08.2008;*

viii. *The respondent College is at liberty to submit a proposal to the Education Department for conversion of the post of Lecturer in the Department of Computer Science, which remains vacant on account of the demise of Mr.Dhanapalan to the Department of Commerce. If any such proposal is submitted, I am hopeful that Education Department shall consider the same in accordance with the rules and norms prescribed for the said purpose;*

ix. *The interim orders passed earlier in these writ petitions shall stand hereby vacated;*

x. *If any amount has been paid from and out of*



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the Management funds to the petitioner towards his salary, the same shall be repaid by the petitioner to the Management, after arrears are paid by the Government to him.

4.The said Subramanian, preferred a contempt petition alleging that pursuant to the order passed by the learned single Judge, he reported duty immediately. But, he was not allowed to join duty under one predecessor or another. Later, the Management had preferred an appeal and got stay of the operation of the order passed by the learned single Judge. The State also followed the Management by filing a writ petition. The appeal got dismissed on 07.04.2014, thereafter SLP was preferred by the Management before the Hon'ble Supreme Court and the same also got dismissed on 01.07.2017.

5.Exposing his grievance that the order of the learned single Judge, after being confirmed up to the Hon'ble Supreme Court, his service was regularised notionally with continuity of service, however, for the period between 18.09.2014 the date on which the learned single Judge allowed his writ petition and 29.11.2017, the date on which he was allowed to join duty, he was not allowed to pay salary. In this



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connection, he has preferred a contempt petition in Cont.P(MD)No.1730 of 2019. The learned single Judge, who examined the contempt petition, has dismissed the same observing that the claim of the petitioner is misconceived and the order of the learned single Judge is only to pay the wages from the date of reporting duty. Since he was reported duty only on 29.11.2017, he is not entitled for wages from the date of the order. Being aggrieved with the dismissal of the contempt petition, the present Letters Patent Appeal is filed.

6.When there is no order of punishment citing Section 19 of the Contempt of Courts Act, it is contended by the respondents that the appeal against the dismissal of the contempt petition is not maintainable. However, the learned counsel appearing for the appellant would submit that the appeal, filed under Letters Patent attacking the order passed by the learned single Judge in a contempt jurisdiction in exercising its power to alter the finding of the learned single Judge, travels beyond the scope of the contempt jurisdiction.

7.The learned counsel would submit that since the writ petition is allowed, the appellant reported to duty on 01.10.2014, however, the



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Management for no reason did not allow him to join duty on 24.07.2014.

The Management preferred an appeal and got stay of the impugned order. Therefore, in pursuant to the Court order, he was not allowed to join duty till the dispute reached its finality. The period of absence is not due to the fault of the appellant. The learned single Judge, while allowing the writ petition, has made a specific observation in Paragraph No.33(iii & iv) that the appellant to be paid salary from the date of reporting duty, since the appellant has reported for duty on 01.10.2014 to prevent him from attending duty by the Management, he cannot be deprived of his salary from 01.10.2014.

8.The learned Additional Government Pleader would submit that in any event, the Government cannot pay from the exchequer to a person, who was not worked. No Work No Pay principle will be apply. If at all he entitled for any wages for the said period, it has to be paid only by the Management.

9.This Court confining its with the legality of the order passed by the learned single Judge in the contemporary contemplation. In paragraph No.33 of the learned single Judge is very specific that the



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appellant has to be paid salary from the date of reporting duty and he claims that he reported duty on 01.10.2014, the records indicate that he was allowed to join duty only on 29.11.2017. In the interregnum period, though the salary claimed by the appellant in the light of the direction of the learned single Judge, as confirmed by the High Court and the Hon'ble Supreme Court is to be implemented, the question whether the appellant was prevented or refused to attend duty is to be looked into. Even assuming that there was no evidence to show that the appellant was not allowed to join duty, when he reported to duty on 01.10.2014, the fact remains that the Management has obtained stay of operation of the order, which has come into effect from 24.07.2015 and the same got effected along with the dismissal of the appeal on 07.04.2017. Not reporting duty or not working duty for this period, when there was a stay would be the fault of the appellant. The order of the learned single Judge, which has gone tangential, while considering the contempt petition, therefore, need to be set aside with fresh appreciation of the fact, whether the non-payment of wages to the appellant for the said disputed period is wilful or not.



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10.Hence, the Letters Patent Appeal stands allowed and the order of the learned single Judge is set aside and the matter is remanded back to the learned single Judge for fresh consideration. No costs.

[G.J., J.] & [K.K.R.K., J.]
09.12.2025

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Internet :Yes
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To

- 1.The Secretary,
Department of Higher Education,
Fort St.George,
Chennai-600 009
- 2.The Director of Collegiate Education,
College Road, Chennai-600 006.
- 3.The Joint Director of Collegiate Education,
Madurai Region,
Madurai-625 020



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