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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 13.02.2025

PRONOUNCED ON : 19.02.2025

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**
and
THE HONOURABLE MS.JUSTICE **R.POORNIMA**

W.A.(MD)No.1609 of 2018

Dr.R.Mathivanan ... Appellant/Respondent

-Vs-

1.The Government of Tamil Nadu,
through its Secretary,
Hindu Religious and Charitable Endowments Department,
Fort St.George, Chennai.

2.The Commissioner,
Hindu Religious and Charitable Endowments Department,
No.19, Uthamar Gandhi Road,
Chennai-34.

3.The Director,
Directorate of Collegiate Education,
College Road,
Chennai- 600 006.

4.The Joint Director of Collegiate Education,
Madurai Region, Vaithiyanadhayyar Street,
Shenoy Nagar, Madurai-20.

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5.The Deputy Commissioner/Secretary,
Arulmigu Palanidandavar College of Arts & Culture,
Palani-624 601, Dindigul District. ... Respondents/
Respondents

Prayer: This Writ Appeal is filed under Clause XV of the Letters Patent, to set aside the order passed in W.P.(MD)No.8339 of 2014 dated 08.12.2017 on the file of this Court.

For Appellant : Mr.E.V.N.Siva

For Respondents : Mr.D.Gandhiraj
Special Government Pleader
for R1 to R4

: Mr.K.Govindarajan for R5

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JUDGMENT

[Judgment of the Court was made by **DR.G.JAYACHANDRAN, J.]**

The appellant herein served in the Arulmigu Palanianadavar College of Arts and Science at Palani as Head of the Zoology Department and attained superannuation on 31/03/2014. Relying on the proceedings issued by the Director of Collegiate Education dated 06/06/2012, the appellant vide his representation dated 06/02/2014 sought for re-

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employment till the end of academic year 2014. The said request was rejected by the Management in view of a disciplinary proceedings pending against him. However based on the letters dated 16/04/2014 and 20/05/2014 issued by the Controller of Examination, Madurai Kamarajar University requesting the appellant to attend the Board meeting of examiners and few other records like his leave letter dated 09/04/2014 and internal marks statement prepared by the appellant, Writ Petition(MD).No. 8339 of 2014 was filed by the appellant seeking salary for the month of April and May, 2014 on the premise that he had been given re-employment for two months period till the end of the academic year.

2. The Management successfully contested writ petition stating that the appellant was facing disciplinary proceedings on the date of his superannuation. Hence he was found not fit for re-employment. In fact he did not serve with the College after 31/03/2014 to claim salary. He was paid all his retirement benefits and duly received. The Disciplinary proceedings came to end on 20/06/2016. The right of re-employment is not automatic though the proceedings of DCE state it as mandatory.

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3.The learned Single Judge dismissed the writ petition for the reason below:-

> *"2. The case of the petitioner is that he was working as a Head of the Department of Zoology at the fifth respondent College since 2007. While attaining superannuation on 31.03.2014, he has already given a representation on 06.02.2014 to the fifth respondent through the Principal seeking for extension of service till the end of the said academic year. The fifth respondent issued show cause notice dated 24.03.2014, asking him to submit the written explanation whether the extension/re-employment should be denied to him, since the departments proceedings are pending against him. The petitioner sent a explanation on 11.03.2014 stating that the third respondent has made it clear that all the extension/re-employment should be offered to all the teacher, who attain superannuation on the middle of the academic year and it is made mandatory therein, hence the fifth respondent cannot be denied the same to him. The fifth respondent had rejected his request on 24.03.2014 for extension/re-employment on the ground that the charge memo dated 06.06.2012 is pending against him. The charge memo was challenged in W.P.(MD)No.5524 of 2010 stating that the Tamil Nadu Civil Services (Discipline and Appeal) Rules*

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are not applicable to the petitioner, who is working in the private aided college and the said Writ Petition was dismissed. The Writ Appeal was also filed by the petitioner herein. While the same was pending, two more Writ Petitions are filed by the petitioner and the same were disposed off by common order dated 21.04.2014, rejecting his request for re-employment and in spite of that the petitioner was expecting the fifth respondent to pass an order permitting him to continue till the end of the academic year and claiming salary for the months of April and May, 2014. Since he sent a representation, nothing was forthcoming for claiming of salary and other benefits, he filed this Writ.

3. Now, on the day of filing this Writ Petition, no interim order was granted on 22.05.2014. It was submitted by the petitioner though the fourth respondent had passed an order directing the fifth respondent to give re-employment to the petitioner. So far, the fifth respondent had not implemented the order passed by the fourth respondent.

4. It is seen that earlier in 2014, the learned Government Pleader had taken time to get instruction whether the fourth respondent had informed the fifth respondent regarding the said order passed, but till date the matter was not listed before this Court. The prayer is

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only for seeking extension of two months i.e., after the superannuation, for the months of April and May in 2014. Now we are standing in the fag end of the year 2017 and this Court finds nothing survives in this matter and hence, this Writ Petition is dismissed as infructuous. No costs."

4. The above order is impugned on the ground that, it is mandatory to re-employ a teaching faculty who retire in the middle of the Academic year till the end of the said academic year. The College Management refusal to engage the appellant citing disciplinary proceedings is bad in law. Further, during the period there are evidence to show that the appellant was engaged by the University for examination work. The appellant was ordered to be re-employed up to May 31st, 2014 in the proceedings of the Joint Director of Collegiate Education, Madurai, dated 16/04/2014. Therefore, the learned single Judge ought not to have dismissed his Writ of Mandamus seeking salary for the period he worked.

5. The above contention of the appellant not sustainable for the singular reason that there is no record to show that the Management re-employed the appellant after he attained superannuation. The records relied

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by the appellant are self serving documents or letter from the University which has sought his assistance as Examiner. The fact that on the date of his superannuation he was facing disciplinary proceedings is not in dispute. The subsequent exoneration of the charges post retirement will not enure any monetary benefit of re-employment, which was not given effect. Hence, 'no work no pay' principle has to be applied in the instant case.

6. As a result, this Writ Appeal stands dismissed. No Costs.

[G.J, J.] [R.P., J.]
19.02.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PJL

To
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R.POORNIMA, J.

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Pre-delivery Judgment made in
W.A.(MD)No.1609 of 2018

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