

(2011) 03 MAD CK 0642

In the Madras High Court

Case No : Writ Petition No. 22145 of 2009 and M.P. No's. 1 and 2 of 2009

M. Balasubramanian

APPELLANT

Vs

Chairman, Governing Council EIT Polytechnic College, S.R.
Sampathu Principal-in-Charge EIT Polytechnic College, S.
Kumaravel Chairman, Enquiry Committee EIT Polytechnic
College and Commissioner, Directorate of Technical Education

RESPONDENT

Date of Decision : 02-03-2011

Acts Referred:

Citation : (2011) 03 MAD CK 0642

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : R. Subramanian, for the Appellant; V. Raghavachari, for RR 1 to 3
and R. Suresh, Government Advocate for R4, for the Respondent

Final Decision : Dismissed

Judgement

Vinod K. Sharma, J.—The Petitioner has approached this Court, with a prayer for issuance of a writ in the nature of certiorari, for quashing the order dated 6.8.2009, vide which, the Petitioner stands suspended from taking class.

2. It is pleaded by the Petitioner that he was appointed as a Lecturer in the Department of Knitting Technology in 1999 by the Selection Committee, in pursuance to his name having been sponsored by the Employment Exchange. The case of the Petitioner, is that the Respondent college is an aided institute, governed by AICTE norms. Under the norms fixed by AICTE, the Managing Committee alone is competent to initiate disciplinary proceedings. The Principal can initiate proceeding in respect of allegations which may lead to the punishments of censure, withholding of increments and recovery from pay.

3. The Managing Committee can only suspend the employee on written instruction from the Governing Council, pending enquiry into grave charges.

4. The impugned order is passed by the Principal-in-charge, stating that the

Enquiry Committee, has been appointed to look into the allegations made by the students, through their parents regarding misbehavior of the Petitioner, with them.

5. The impugned order shows that the Enquiry Committee was constituted only to go into the allegations made, and the Petitioner was directed to appear. In view of serious charges levelled against him, the Respondents have not chosen to take any disciplinary action so far nor have they suspended the Petitioner. The Petitioner is suspended, only from taking classes, in view of the serious complaint against him, by the students.

6. Learned Counsel for the Petitioner, vehemently contend that the impugned order is stigmatic in nature, and it has been passed without hearing the Petitioner or holding any departmental enquiry regarding the allegations.

7. It is also the contention of the learned Counsel for the Petitioner that the Enquiry Committee constituted to look into the allegations has not been constituted as per the provisions of the Act. Therefore, the Enquiry Committee, cannot hold any valid enquiry or record findings against the Petitioner. In addition, the learned Counsel for the Petitioner also contended that the Enquiry Committee, has not given the copy of the complaint, which is asked for by the Petitioner. Therefore, the conduct of the enquiry proceedings are in violation of principle of natural justice.

8. On consideration, I find no force in the contention raised by the learned Counsel for the Petitioner.

9. The Enquiry Committee, has been constituted only to hold preliminary enquiry and not departmental enquiry. The Departmental Enquiry can only be commenced after the Petitioner is issued with a specific charges memo containing allegations. It will be at that stage, that Respondents will constitute a Committee, in accordance with the Act and the Rules. For the purpose of preliminary enquiry, it is not necessary to constitute an Enquiry Committee, as contended by the learned Counsel for the Petitioner.

10. The impugned order cannot said to be punitive in nature, as the Petitioner is neither punished nor placed under suspension. He has only been suspended from taking classes pending preliminary enquiry by the constituted Committee.

11. It is not disputed by the Petitioner, that he is being paid regular salary for the post to which he was appointed.

12. It is well settled law, that it is the discretion of the employer to give or not to give work to the employee. If no work is given to the employee, he cannot have any grievance, so long as, he paid regular salary. The writ petition is therefore, totally misconceived.

13. In view of the above, the writ petition is dismissed. No costs. Consequently, connected MPs are also dismissed.