

(2006) 07 MAD CK 0070

In the Madras High Court

Case No : Writ Petition No. 4727 of 2000 and WPMP No's. 7230 and 7231 of 2000

The Director of Technical Education and The Principal, Tamil Nadu Polytechnic

APPELLANT

Vs

G. Vincent Michael and The Registrar, Tamil Nadu State Administrative Tribunal

RESPONDENT

Date of Decision : 19-07-2006

Acts Referred:

Citation : (2006) WritLR 781

Hon'ble Judges : K. Suguna, J; Elipe Dharma Rao, J

Bench : Division Bench

Advocate : V. Viswanathan, Spl. G.P, for the Appellant; No appearance, for the Respondent

Final Decision : Dismissed

Judgement

Elipe Dharma Rao, J.—These Writ Petitions are filed challenging the common order dated 16.10.1998 passed by the Tamil Nadu

Administrative Tribunal in O.A. Nos. 1348 of 1990 and 3896 of 1991.

2. The case of the applicant/the first respondent herein is that he was working as Associate lecturer (Upgraded) in the Tamil Nadu Polytechnic,

Madurai. He went on leave from 1.11.986 to 5.6.1988 and rejoined duty on 6.6.1988 and applied for voluntary retirement and again went on

leave from 7.6.1988. The second respondent initiated disciplinary proceedings against him, since he applied for leave, it causes administrative

inconvenience and affect students classes. The applicant replied that inasmuch as he had already submitted his application for voluntary retirement,

the question of departmental proceedings does not arise and requested the

second respondent to drop the charges. But the enquiry was conducted and on the basis of the enquiry report, he was removed from service, against which he filed O.A. No. 3896 of 1991 before the Tamil nadu Administrative Tribunal and he also filed O.A. No. 1348 of 1990 for a direction to settle the different spells of leave and pay arrears of his salary and also to issue a certificate regarding his qualifying service.

3. After going through the Rules and hearing the matter, the Tribunal came to the conclusion that the order of removal from service is in violation of

the provisions of the F.R.18(3). On this sole ground, the Tribunal quashed the removal order and further directed the Director of Technical

Education to issue a certificate to the applicant regarding qualifying service, for the purpose of seeking voluntary retirement. Against the same, the present writ petitions are filed.

4. As per Fundamental Rule 18(3), a Government servant shall, unless the Governor in view of the exceptional circumstances of the case otherwise

determines, be removed from service, following the procedure laid down in the Tamil Nadu Civil Services (Classification, Control and Appeal)

Rules. It is not the case of the department that the case relating to the disciplinary proceedings against the first respondent was submitted to the

Governor and the Governor did not decide on imposition of any punishment other than removal from service. Therefore, the department has not

followed the provisions contemplated under the F.R.18(3). The first respondent applied for different spells of leave and it is for the authorities

either to decide whether the leave should be granted or refused. The first respondent applied for voluntary retirement. But the authorities without

following the procedure contemplated under the Rules, removed the first respondent from service. The Tribunal set aside the order of removal

passed against the first respondent. We find no reason to interfere with the order of the Tribunal.

Therefore, the Writ Petitions are dismissed. No costs. The connected WPMPs are closed.