

IN THE HIGH COURT OF JUDICATURE AT MADRAS

D A T E D : 24.06.2021

C O R A M

The Hon'ble Mr. Justice **SENTHILKUMAR RAMAMOORTHY**

**Writ Petition No.11981 of 2010**

P.Mahendran

.... Petitioner

Vs.

Periyar University,  
Rep. by its Registrar,  
Omalur Main Road,  
Salem – 636 011.

.... Respondent

**PRAYER** : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the Respondent, relating to the order in Proceeding No.PU/R/R5/002717/2010, dated 05.06.2010 and quash the same.

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For Petitioner : M/s.K.Selvaraj

For Respondent : Ms.H.Mary Sowmi Rexi  
for M/s. Isaac Chambers

**ORDER**

The Petitioner challenges an order dated 05.06.2010 whereby his services as a Reader in the Department of Education, Periyar University, were terminated.

2. The Petitioner states that he was appointed as a Reader in the Department of Education, Periyar University, by proceedings dated 24.10.2008. Pursuant thereto, he joined duty on 30.10.2008. He further states that he is highly qualified and possessed considerable relevant work experience even as on the date of appointment. However, by impugned proceedings dated 05.06.2010, the Petitioner states that his services were terminated on the ground that he had produced a fake experience certificate. The Petitioner has categorically denied that he produced a fake experience certificate in paragraph 4 of the affidavit in support of the writ petition. In addition, it is stated that the Petitioner was not provided an opportunity to make a representation against the proposed termination and, therefore, such termination is in gross violation of the principles of natural justice.

3. While assailing the impugned order, learned counsel for the Petitioner reiterated the statements in the affidavit and, on a demurrer, invited the attention of the Court to the annexure to letter dated 18.01.2011 and contended that the said document evidences that the Petitioner had more than five years of teaching experience even if the experience of about 1-1/2 years in the Karnataka State Education Federation College of Education (the KSEF College) is excluded. Consequently, the learned counsel contends that the impugned order is liable to be quashed not only because the Petitioner was not provided a reasonable opportunity of hearing but also because the Petitioner satisfies the experience criteria even if the experience certificate from the KSEF College is disregarded.

4. On the contrary, learned counsel for the Periyar University (the University) states that the termination of the Petitioner was based upon the report of the inquiry committee constituted by the University. By drawing reference to the said report, learned counsel pointed out that the Principal of the KSEF College stated categorically that the experience certificate from the KSEF College was not issued by the college authorities. She also referred to the letter dated 20.01.2010 from the Principal of the KSEF

College wherein it is stated that no employee by the name of Mr.P.Mahendran worked in the KSEF College between July 1998 and June 2001. She also submitted that the Petitioner admitted that he had produced an invalid certificate. For this purpose, reference was drawn to the communication dated 18.01.2011 from the Petitioner to various authorities.

5. Upon considering the rival contentions, the first question that arises for determination is whether the Petitioner was provided a reasonable opportunity before issuing the termination order. The admitted position is that the Petitioner was appointed as a Reader on 30.10.2008 and served in that position for about nineteen months before the impugned termination order was issued on 05.06.2010. As such, notwithstanding the gravity of the charges against the Petitioner, the Petitioner should, ordinarily, have been provided an opportunity to show cause and make a representation with regard to the allegation of having produced a fake certificate unless it can be inferred definitively that only one conclusion could be reached or that no prejudice would be caused by not providing such opportunity. Therefore, this question should be examined next.

6. As alluded to above, the principles of natural justice are not inflexible and even the requisite standard of compliance varies depending on context. Besides, it was held in cases such as **S.L.Kapoor v. Jagmohan (1980) 4 SCC 379** and **K.L.Tripathi v. State Bank of India (1984) 1 SCC 43** that non-compliance with prior notice or reasonable opportunity requirements would not vitiate the action of the authority concerned if, in the facts and circumstances, only one conclusion is possible or if no prejudice would be caused. To put it differently, the standard principles of natural justice would not apply if the facts and circumstances lead to the definitive inference that the provision of an opportunity to show cause would have made no difference.

7. In the case at hand, learned counsel for the University relied upon the Petitioner's letter of 18.01.2011 and contended that Petitioner admitted that the certificate from the KSEF College is a fake certificate. Therefore, the said contention warrants close scrutiny. Upon examining the relevant letter from the Petitioner, I find that the Petitioner has referred to the said certificate as invalid but there is no admission that the said certificate is fake. In addition, in paragraph 4 of the affidavit filed in

support of the writ petition, the Petitioner has categorically denied that he produced a fake experience certificate. He has also referred to his teaching experience of more than five years even if the KSEF College certificate is disregarded. In such circumstances, I am of the view that a definitive inference cannot be drawn that the provision of an opportunity of hearing to the Petitioner would be futile, and, as a corollary, a departure from the standard requirements of natural justice is not justified.

8. In the wake of the foregoing discussion and analysis, the impugned termination order dated 05.06.2010 cannot be sustained, and is quashed solely on the ground that a reasonable opportunity was not provided to the Petitioner prior to the issuance of the impugned order. Although the merits have not been examined or determined with any degree of finality, the facts and circumstances clearly do not warrant a consequential reinstatement of the Petitioner. Instead, the University is directed to conduct a *de novo* inquiry by providing a reasonable opportunity to the Petitioner and issue a reasoned decision within a period of two months from the date of receipt of a copy of this order. The Petitioner is

directed to extend full co-operation for the conclusion of the aforesaid inquiry within the above mentioned period.

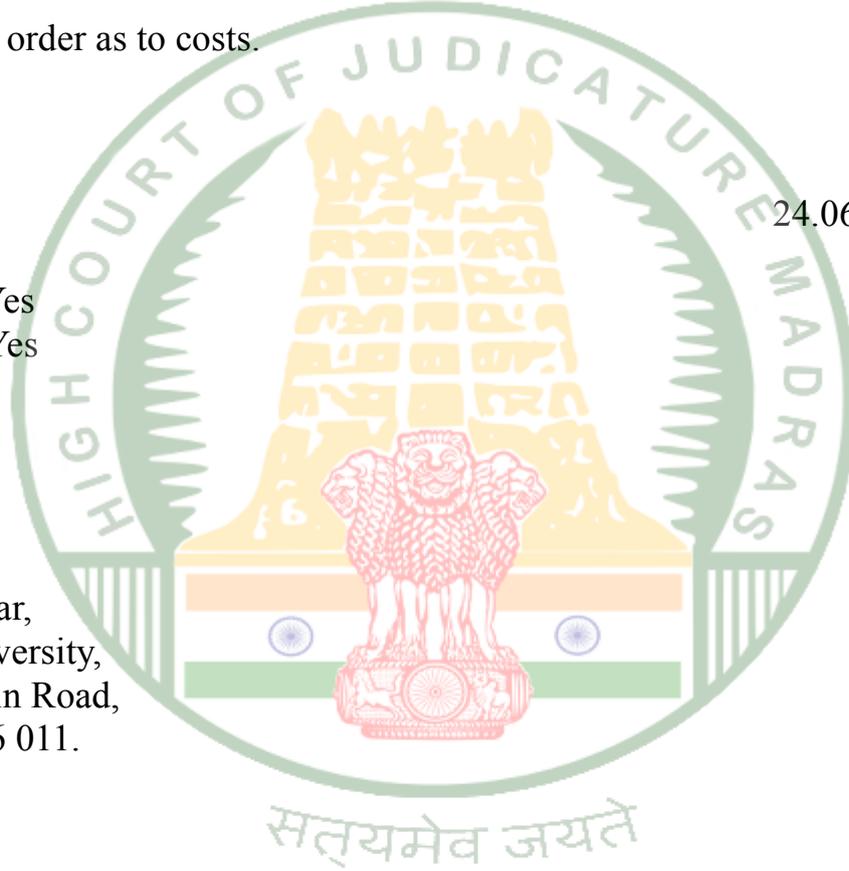
9. W.P.No.11981 of 2010 is disposed of on the above terms without any order as to costs.

24.06.2021

Index :Yes  
Internet :Yes  
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To

The Registrar,  
Periyar University,  
Omalur Main Road,  
Salem – 636 011.

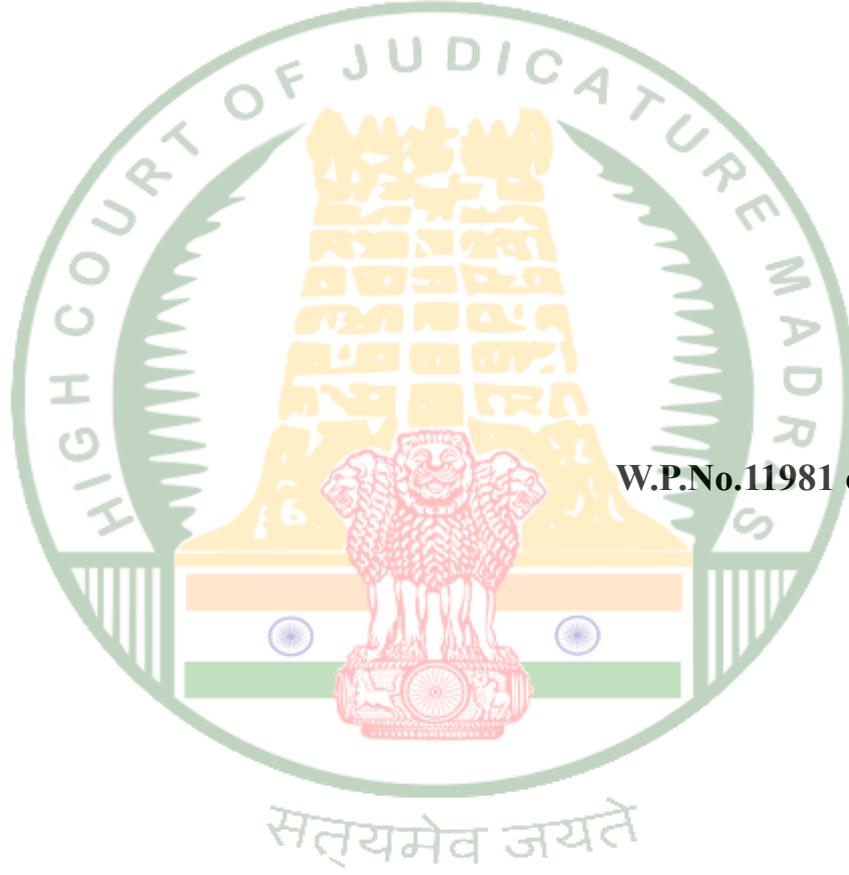


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**SENTHILKUMAR RAMAMOORTHY J.,**

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