

NON-REPORATABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.9149-9150 OF 2015

[Arising out of Special Leave Petition (Civil) Nos.26425-26426 of 2014]

Dr. I. Ismail**.. Appellant****Vs.****K. Shameem Rani & Anr.****.. Respondents****J U D G M E N T****C. NAGAPPAN, J.**

1. Leave granted.
2. These appeals are preferred against the judgment dated 9.2.2011 passed by the Madurai Bench of Madras High Court in Writ Appeal (MD) No. 295 of 2010 and order dated 30.6.2014 passed in Review Application (MD) No. 84 of 2012.

3. The facts in brief are as follows: The appellant joined the second respondent College as Assistant Professor in the year 1978 and was promoted as Professor in the year 1988. He was appointed as Principal in the year 1999. A charge memo containing 31 charges was served on the appellant on 30.8.2003. The first 9 charges related to harassment including sexual harassment based on the complaint given by the first respondent and other charges related to misuse of power, insubordination and misappropriation etc. A retired District Judge was appointed as Enquiry Officer and after a detailed inquiry, he submitted report holding that the charges levelled against the appellant were proved except charge nos. 4, 10 to 15, 23 and 25. After following the procedure an order of removal dated 2.12.2005 was passed by the second respondent college and the appellant challenged the said order in WP No. 11618 of 2005 before the High Court. In the meanwhile, new governing body for the second respondent college was constituted on 25.6.2006 and it passed resolution on 29.5.2006 and ordered to reinstate the appellant with consequential

benefits. The appellant re-joined the service and withdrew his writ petition on 12.7.2006.

4. An old student of the second respondent college filed writ petition by way of public interest questioning the order of reinstatement of the appellant and the first respondent herein also filed another writ petition challenging the reinstatement and both the writ petitions were heard by Division Bench of the High Court along with another writ petition filed by the appellant challenging the order dated 21.7.2008 of the management accepting his voluntary retirement request. By common judgment dated 30.9.2009, the Division Bench dismissed the public interest writ petition as well as the writ petition filed by the appellant and allowed the writ petition filed by the first respondent herein and set aside the order of reinstatement of the appellant. Aggrieved by the same, appellant preferred special leave petitions in S.L.P. Nos. 35065 and 35066 of 2009 and this Court dismissed the petitions on 25.1.2010. However, the appellant was granted liberty to renew

his challenge to the order dated 2.12.2005 in accordance with law.

5. The appellant filed writ petition in WP (MB) No. 1132 of 2010 challenging the removal order dated 2.12.2005 and the Single Judge by order dated 21.4.2010 allowed the writ petition on the short ground that the committee had not been constituted as per the judgment of this Court in **Vishaka Vs. State of Rajasthan and Ors.** (1997 (6) SCC 241) to consider the charge of sexual harassment in the work place. The first respondent herein challenged the said order by preferring writ appeal in WA (MD) No. 295 of 2010 and Division Bench of the High Court held that most of the charges including sexual harassment were found proved by the Enquiry Officer and the report was accepted by the management and having noticed the gravity of the proved charges, the governing body in its resolution dated 2.12.2005 passed the order of removal of the appellant from service and the issue has already been decided and the removal order was found valid and ordered to be restored by setting aside the order of the reinstatement and the

said judgment of the earlier Division Bench has become final and consequently allowed the writ appeal and dismissed the writ petition filed by the appellant. The appellant filed review petition and the same was dismissed. Challenging the impugned judgment as well as the order in review these appeals have been preferred.

6. We heard the submissions of Mr. Nagendra Rai, learned senior counsel appearing for the appellant and Mr. J.M. Khanna, learned counsel appearing for the respondents.

7. There is inordinate delay of 1186 days in filing the SLPs. By order dated 29.8.2014 this Court issued notice on the application for condonation of delay as well as on the special leave petition. In the petition seeking for condonation of delay it is stated that the Division Bench of the High Court rendered its judgment dated 9.2.2011, and then the appellant filed review petition and that also came to be dismissed and hence the delay has occurred in filing the SLPs. There is gross delay of almost 3½ years in challenging the judgment rendered in the

writ appeal and no explanation much less cogent explanation has been given by the appellant. There is no reason to condone the delay. Even otherwise on merits also no case is made out for interference by this Court. The Division Bench of the High Court has elaborately considered the issues including the issue of *res judicata* and concluded that the order of removal of the appellant dated 2.12.2005 is proper and valid and upheld the same. We find no legal infirmity in the impugned judgment.

8. The appeals are dismissed on the ground of delay as well as on merits. No costs.

.....J.
(M.Y. Eqbal)

.....J.
(C. Nagappan)

**New Delhi;
October 30, 2015.**