



W.A.(MD)No.899 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.A.(MD)No.899 of 2013
and M.P.(MD)No.2 of 2013

- 1.The Government of TamilNadu,
Rep. by its Secretary to the Government School,
(School Education Department),
Fort St. George,
Chennai – 9.
- 2.The Director of Elementary School Education,
Director of Elementary Education,
D.P.I. Campus, College Road,
Chennai – 6.
- 3.The District Elementary Educational Officer,
Tirunelveli.
- 4.The Assistant Elementary Educational Officer,
Senkottai,
Tirunelveli District.

... Appellants

Vs.

- 1.S.Mary Pushpa Latha
- 2.Mariappan,
District Elementary Educational Officer,
Tirunelveli.

...Respondents



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PRAYER: Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 28.03.2013 made in W.P.(MD)No.2616 of 2010 and M.P.(MD) Nos.2 of 2010 and 1 of 2011 on the file of this Court.

For Appellants : Mr.V.Om.Prakash
Government Advocate

For 1st Respondent : Mr.K.Radhakrishnan

For 2nd Respondent : No appearance

JUDGMENT

(Judgment of the Court was delivered by ***R.SURESH KUMAR, J.***)

This Writ Appeal has been directed against the order passed by the Writ Court dated 28.03.2013 in W.P.(MD)No.2616 of 2010.

2. The first respondent was a teacher at the appellant department, against whom disciplinary proceedings were initiated and charge memo dated 19.01.2009 was issued, followed by Show Cause Notice dated 17.02.2010. Challenging these proceedings, the Writ Petition was filed. The learned Judge, who heard the Writ Petition had taken note of the fact that the first respondent's husband also was facing the similar charge of completing full time B.Ed., course without taking proper permission or



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leave from the authorities concerned and against whom also such disciplinary proceedings were initiated, challenging the same, the husband of the first respondent filed a Writ Petitioner in W.P.(MD) No.32 of 2010, which was considered and ordered by the Writ Court, where, since some of the charges framed against the husband of the 1st respondent since were proved proportionate punishment can be awarded against him, for which, the punishment of removal of service imposed against him was set aside and the matter was remitted back to the authorities concerned to conduct an enquiry and accordingly to award suitable punishment but not the major punishment of removal of service.

3. Only in that circumstances, taking note of the earlier order passed in respect of the 1st respondent's husband, the learned Judge has dealt with this matter also as verbatim the same or similar charges had been framed against the 1st respondent and that charges as well as the show cause notice issued in this regard since were under challenge, the learned Judge decided to allow the Writ Petition filed by the 1st respondent exactly on the same terms, where the earlier Writ Petition filed by the husband of the 1st respondent on the similar set of charges under similar circumstances was



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allowed was taken into account and accordingly, the said Writ Petition was ordered, as against which only now the present intra-Court appeal has been directed at the instance of the appellant department.

4. Heard Mr.OM Prakash, learned Government Advocate, appearing for the appellants and Mr.K.Radhakrishnan, learned counsel appearing for the 1st respondent.

5. It is not in dispute that insofar as the 1st respondent and her husband are concerned, both were facing the similar set of charges under similar circumstances and the disciplinary proceedings made against the husband is concerned that was dealt with by the learned Judge in the said Writ Petition and what order passed in the said Writ Petition having been accepted by the department, enquiry was completed, based on which a lesser punishment of withholding increments for three years with cumulative effect that has been imposed.

6. When that being so, the 1st respondent / writ petitioner, who is also similarly placed under similar circumstances, facing the same set of



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charges cannot be treated differently. Therefore, the reasoning given by the learned Judge for allowing the Writ Petition through the impugned order dated 28.03.2013 is justifiable and in this regard we do not find any error in the disposal of the said Writ Petition through the impugned order.

7. In this context, the learned Government Advocate appearing for the appellants would submit that if that being the view of the Court, this matter can also be remitted back to the appellant authorities based on such remand an enquiry to be conducted in this regard on the charges framed against the 1st respondent and punishment commensurate with the proven charges would be given to her and to that extent a remand order can be passed, he contended.

8. We have considered the said submissions made by the learned counsel on both sides and perused the materials placed before this Court.

9. In view of the aforestated reasons and the order already passed by the Writ Court in W.P.(MD) No. 32 of 2010 in respect of the case of the husband of the 1st respondent and same having been accepted was acted



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upon by the authorities concerned, who are the appellants herein and in the same lines since this Writ Petition has also been allowed by the learned Judge through the impugned order, we do not find any error in the said order passed by this Court, which is impugned herein.

10. In the result, this Writ Appeal fails, hence it is dismissed. However, we make it clear that, the charges framed against the first respondent shall be dealt with in accordance with law by the appellant department, where if ultimately the charges are proved, the similar punishment as that of the one imposed against the 1st respondent's husband can very well be imposed against the 1st respondent also. However, there shall be no order as to cost. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.) & (K.K.R.K, J.)

20.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
SJ



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