



W.P.Nos.13956 of 2017, 3603 of 2018 and 31013 of

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 30.04.2024

Pronounced on : 29.07.2024

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.13956 of 2017, 3603 of 2018 and 31013 of 2019

and

W.M.P.Nos.15151 and 15152 of 2017

W.P.No.13956 of 2017

Periyasaamy Aided Elementary School,
Rep. by its Correspondent/ Secretary,
C.Kalavathy,
Mettur Main Road,
Ammapettai, Bhavani Taluk,
Erode District – 638 311.

... Petitioner

Vs.

1. The Director of Elementary Education,
DPI Complex College Road,
Chennai.
2. The District Elementary Educational Officer,
O/o the District Elementary Educational Office,
Old Railway Station, Erode, Erode District.
3. The Assistant Elementary Educational Officer,
Ammapettai, Anthiyur Taluk,
Erode District.
4. Mr.Muthukrishnan
5. S.Ilanthendral

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the 2nd respondent in his proceedings Na.Ka.No.5075/A4/2016, dated 26.05.2017 and quash the same and consequently direct the 2nd respondent grant prior permission, as required under section 22 of Tamil Nadu Recognized Private Schools (Regulation) Act, 1973 and Rule 17 of Tamil Nadu Recognized Private Schools (Regulation) Rules, for removing the 5th respondent from service of petitioner school.

W.P.No.3603 of 2018

S.Ilanthendral

... Petitioner

Vs.

1. The Director of Elementary Education,
DPI Complex College Road,
Chennai.
2. The District Elementary Educational Officer,
O/o the District Elementary Educational Office,
Old Railway Station, Erode, Erode District.
3. The Assistant Elementary Educational Officer,
Ammapettai, Anthiyur Taluk,
Erode District.
4. The Correspondent/ Secretary,
Periyasamy Aided Elementary School,



Mettur Main Road,
Ammappettai, Bhavani Taluk,
Erode District – 638 311

... Respondents

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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to reinstate the petitioner into service to the post of Secondary Grade Teacher in the 4th Respondent school with effect from the expiry of period of two months from 08.01.2017 with all consequential and other attendant benefits including arrears of salary along with interest for belated payment, within a time frame to be fixed by this Honourable Court.

W.P.No.31013 of 2019

S.Ilanthendral

... Petitioner

Vs.

1. The Joint Director (Aided Schools),
Tamil Nadu Elementary Education,
DPI Complex College Road,
Chennai.
2. The Chief Educational Officer,
Erode District, Erode.
3. The District Educational Officer,
Bhavani Educational District,
Bhavani, Erode District.
4. The Correspondent/ Secretary,
Periyasamy Aided Elementary School,
Mettur Main Road,



Ammapettai, Bhavani Taluk,
Erode District – 638 311

... Respondents

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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed in the appeal in Na. Ka. No. 5563/E3/2018 dated 26.8.2019 on the file of the 2nd respondent confirming the order of termination passed by the 4th respondent in Na.Ka.No.354/A1/2018 dated 30.7.2018 quash the same and direct the respondents to reinstate the petitioner in service with all attended benefits.

For Petitioner : Mr.C.Prakasam
(in W.P.No.13956 of 2017)

For Petitioner : Mr.R.Prabakar
(in W.P.No.3603 of 2018)

For Petitioner : Mr.S.Duraiswamy
(in W.P.No.31013 of 2019)

For R1 to R3 : Mr.K.H.Ravikumar (in all W.Ps)

For R5 : Mr.R.Prabakar
(in W.P.No.13956 of 2017)

COMMON ORDER

All the three Writ Petitions pertaining to the issue relating to the service of one S.Ilanthendral, W/o S.Palanisamy in Periyasami Aided Elementary School, Mettur Main Road, Ammapettai, Bhavani Taluk, Erode District and hence, all the Writ Petitions were taken up together for hearing



and are being disposed of by this common order. For the sake of convenience, the parties are referred to as per the status of the parties as shown in the array of the cause-title in W.P.No.31013 of 2019 is taken into consideration.

2. The petitioner was appointed as 'Secondary Grade Teacher' in the 4th respondent School on 24.04.2006 and her appointment was approved by the District Elementary Educational Officer, Erode through proceedings bearing No.K.Dis.8858/B3/2006 dated 30.04.2007. Thereafter, the petitioner was extended the benefit of time scale of pay through proceedings bearing ந.க.எண்.8858/அ3/06 dated 30.04.2007. On completion of the period of probation, the probation of the petitioner was declared through proceedings bearing ந.க.எண்.302/2009 dated 12.08.2009 and the petitioner was declared to have satisfactorily completed her probation on 31.05.2008. When the petitioner was appointed as 'Secondary Grade Teacher' in the year 2006, one M/s.E.Sujatha was the Correspondent and thereafter, there was change in Management with effect from 01.12.2014 and one G.Kalavathi, W/o N.R.Govindaraja became the Correspondent of the School in question.



Thereafter, in the year 2016, on completion of 10 years of service as 'Secondary Grade Teacher', the petitioner was granted Selection-Grade

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through proceedings bearing ந.க.எண்.667/21/16 dated 21.06.2016.

3. While things stood thus, the 4th respondent initiated disciplinary proceedings against the petitioner by placing her under suspension by an order dated 07.11.2016 and thereafter, a charge-memo dated 22.11.2016 was issued to the petitioner consisting of seven charges against the petitioner. The said charges reads as under:-

1. பள்ளி நிர்வாகத்தில் 07.09.2016 ஆம் தேதி பள்ளி நிர்வாக அலுவலர் அனுப்பிய சுற்றறிக்கையினை மற்ற ஆசிரிய, ஆசிரியைகள் மற்றும் மாணவ, முாணவிகள் மத்தியில் படித்துக்காட்டி கையெழுத்திட மறுத்து பள்ளியைப் பற்றி வேண்டுமென்றே தரக்குறைவாக பேசியும், ஏளனமாகப் பேசியும், உதாசீனப்படுத்தியும், மற்ற ஆசிரிய, ஆசிரியைகள் மத்தியில் விதிகளில் கூறப்பட்டவைகளுக்கு முரணாக நடந்து குற்றம் புரிந்துள்ளீர்கள்.



2. பள்ளிக் கல்வித் துறையின் இயக்குநர் அவர்களின் 31.05.2016 தேதியிட்ட உத்தரவு மாவட்ட முதன்மைக் கல்வி அலுவலர் மற்றும் மாவட்ட கல்வி அலுவலர் அவர்களின் 18.10.2016 மற்றும் 20.10.2016 தேதியிட்ட சுற்றறிக்கையில் கூறப்பட்டவைகளை ஏற்று அதன்படி நடக்காமல், அதற்கு மாறாக, முரணாக வேண்டுமென்றே தினமும் வகுப்புகள் நடக்கும் நேரங்களில் வகுப்பிலேயே கைபேசியை உபயோகித்து பேசிக் கொண்டிருந்ததன் மூலம் உங்களுக்கு உரிய வேலையாகிய வகுப்பில் மாணவர்களுக்கு பாடங்கள் நடத்துவதை தவிர்த்து செயல்பட்டதின் மூலம் நன்னடத்தை விதிகளில் கூறப்பட்டவைகளுக்கும், பள்ளிக் கல்வித்துறை சுற்றறிக்கைகளுக்கு மாறாகவும் நடந்து குற்றம் புரிந்துள்ளீர்கள்.

3. பள்ளிக் கல்வித் துறையின் 20.10.2016 தேதியிட்ட சுற்றறிக்கையில் பள்ளி அலுவல் நேரங்களில் ஆசிரியர்கள் பள்ளியினை விட்டு வெளியே செல்லக் கூடாது எனவும், அப்படி தவிர்க்க முடியாத



காரணங்களால் வெளியில் செல்ல நேரிடும்பொழுது, உரிய முன் அனுமதி பெற்று நகர்வு பதிவேட்டில் பதிந்து செல்ல வேண்டும் என்று கூறப்பட்டுள்ளதை கடைபிடிக்காமல் நீங்கள் பல நாட்களில் குறிப்பாக 20.10.2016, 21.10.2016 மற்றும் 24.10.2016 தேதிகளில் முன் அனுமதி இன்றியும் நகர்வு பதிவேட்டில் பதியாமலும் பள்ளியினை விட்டு வெளியில் சென்றதன் மூலம் நன்னடத்தை விதிகளில் கூறப்பட்டவைகளுக்கும், பள்ளிக் கல்வித்துறை சுற்றறிக்கைகளுக்கு மாறாக வேண்டுமென்றே நடந்து குற்றம் புரிந்துள்ளீர்கள்.

4. தங்கள் பள்ளிக்குழு செயலாளர் 31.10.2016ல் குறிப்பாணை கொடுத்து விளக்கம் கேட்டதற்கு அன்று இரவு 09.00 மணிக்கு பள்ளி தாளாளர் மற்றும் செயலாளர் வீட்டிற்கு முன் அனுமதியின்றி அத்துமீறி இரவு நேரத்தில் நுழைந்து அவரை தகாத வார்த்தைகளால் திட்டியும், தற்கொலை மிரட்டல் விடுத்தும் அநாகரிகமாக நடந்து குற்றம் புரிந்துள்ளீர்கள்.



5. உங்கள் மீது கொடுத்து புகாரின் மீது ஒரு குறிப்பானை கொடுத்து விளக்கம் கேட்டதற்கு, ஆதனை முறைப்படி எதிர்கொள்ளாமல் 07.11.2016 அன்று இரவு பள்ளி நிர்வாகம் நடக்காத ஒன்றுக்கு தன் மீது வேண்டுமென்றே விளக்கம் கேட்பதை தாங்கிக் கொள்ள முடியவில்லை அதனால் விசமருந்து அருந்தி தற்கொலை செய்ய முயல்கதாக நாடகமாடி தவறான நிலையினை உருவாக்கி ஒரு அசாதாரண நிலையினை பள்ளி நிர்வாகத்திற்கு ஏற்படுத்தியும், பள்ளியுள் நற்பெயரையும், புகழையும், மாணவர்கள், ஆசிரியர்கள், பொதுமக்கள் மற்றும் பள்ளிக் கல்வித்துறையுல் கெடுத்து நன்னடத்தை விதிகளில் கூறப்பட்டவைகளுக்கு மாறாக நடந்து குற்றம் புரிந்துள்ளீர்கள்.

6. பள்ளியின் தலைமையாசிரியர் அவர்கள் நீங்கள் ஒழுங்கீனமாக நடந்து கொண்டதை பள்ளி நிர்வாகத்திடம் கூறிவிட்டதால், சுக ஆசிரியர்கள், சுமார் 3.00 மணி அளவில் மாணவர்கள், சுக ஆசிரியர்கள், பணியாளர்கள் மத்தியில் அவரை தரக்



குறைவான வார்த்தைகளால் கடுமையாகவும்,
ஆபாசமாகவும், அருவருப்பாகவும், திட்டி மிகவும்
ஒழுங்கீனமாக நடந்து நன்னடத்தை விதிகளில்
கூறப்பட்டவைகளுக்கு மாறாக நடந்து குற்றம்
புரிந்துள்ளீர்கள்.

7. தங்கள் வேண்டுமென்றே தவறான மற்றும்
முறையற்ற கடுமையான ஒழுங்கீனமான நடவடிக்கை
காரணமாக பள்ளி நிர்வாகத்தின் நற்பெயருக்கும்,
புகழுக்கும் களங்கம் விளைவித்தும் மற்றும் இதர
ஆசிரிய ஆசிரியைகள், மாணவர்கள், பொது மக்கள்
மத்தியில் ஒரு அசாதாரணமான சூழ்நிலையை
உருவாக்கி நன்னடத்தை விதிகளில்
கண்டுள்ளவைகளுக்கு மாறாக நடந்து குற்றம்
புரிந்துள்ளீர்கள்.

4. Thereafter, the 4th respondent has appointed an Enquiry Officer to enquire into the charges levelled against the petitioner and on conclusion of the said disciplinary proceedings, the 4th respondent proposed to terminate the services of the petitioner as a measure of punishment and sought for prior permission of the 3rd respondent/ District Enquiry Officer, as required under



Section 22 of the Tamil Nadu Recognized Private Schools Act, 1973. The 3rd

respondent after having examined the proposal submitted by the 4th

respondent refused to grant prior approval through proceedings bearing

ந.க.எண்.5075/அ4/2016 dated 26.05.2017. Aggrieved by the said

proceedings dated 26.05.2017, the 4th respondent herein approached this

Court by filing W.P.No.13956 of 2017, whereas the petitioner herein filed

W.P.No.3603 of 2018 seeking reinstatement into service and for payment of

all monetary benefits consequent upon refusal order dated 26.05.2017 passed

by the respondent/ District Educational Officer. While both the above Writ

Petitions are pending before this Court, the 4th respondent herein appears to

have made a complaint to the Government against the very appointment of

the petitioner as 'Secondary Grade Teacher' in the year 2006 and the husband

of the petitioner, who is stated to be an Ex-member of Rajya Sabha also

stated to have addressed a letter to the Government and accordingly, the

Government through letter dated 23.09.2017 directed the Director of

Elementary Education to conduct an enquiry and submit a report on the

complaint made by the 4th respondent against the petitioner. It is pursuant to

the said direction issued by the Government, the Joint Director stated to have

conducted an enquiry and came to the conclusion that the appointment of the



petitioner, as a Secondary Grade Teacher in the 4th respondent School in the year 2006 was made in violation of the Rules and procedures and also in violation of the communal roaster. It is pursuant to the said report submitted by the Director through proceedings bearing Na.Ka.No.14227/F/2017 dated 22.05.2018, the Government through Letter No.15186/ELE.EDN(2)(1)/2018-1 dated 11.06.2018 directed the authorities concerned to act according to the provisions of the Tamil Nadu Recognized Private Schools Act, 1973. It is pursuant to the said order of the Government, the Director of Elementary Education through proceedings bearing Na.Ka.No.014227/F2/2017 dated 26.07.2018 directed the 2nd respondent to take an action on the letter of the Government dated 11.06.2018. Accordingly, the 3rd respondent having considered the proposal submitted by the 4th respondent through its letter bearing Na.Ka.No.223/Aa1/2017 dated 02.03.2017 proposing to terminate the services of the petitioner, granted prior approval as required under Section 22 of the Tamil Nadu Recognized Private Schools Act, 1973 through proceedings bearing Na.Ka.No.176/Aa3/2018 dated 18.07.2018. It is thereafter the School Committee of the 4th respondent stated to have passed a resolution dated 27.07.2018 terminating the services of the petitioner and accordingly, the 4th respondent issued the proceedings bearing



Na.Ka.No.354/Aa1/2018 dated 13.07.2018 terminating the services of the petitioner. Aggrieved by the same, the petitioner filed an appeal before the 2nd respondent and the 2nd respondent through proceedings bearing Na.Ka.No.5563/E3/2018 dated 26.08.2019 rejected the appeal filed by the petitioner, confirming the order of termination dated 30.07.2018. It is aggrieved by the said order passed by the 2nd respondent dated 26.08.2019 confirming the order passed by the 4th respondent dated 30.07.2018, the petitioner approached this Court by filing W.P.No.31013 of 2019.

5. Heard Sri.Doraiswamy, learned counsel for the petitioner in W.P.No.31013 of 2019 and Sri.K.H.Ravikumar, learned Government Advocate for the respondents 1 to 3 and Mr.L.Prakasam, learned counsel for the 4th respondent and Mr.R.Prabakar, learned counsel for the petitioner in W.P.No.3603 of 2018, and also perused the entire material on record.

6. The petitioner was suspended from service on 07.11.2016 and she is out of service since then. By the date of her suspension from service, the petitioner has completed 10 years of unblemished service. Till date of change



of Management on 01.12.2014 and thereafter, till the year 2016, there were no allegations of whatsoever nature against the petitioner. It is only during the last part of the year 2016, certain allegations were made against the petitioner resulting in issuance of charge-memo dated 22.11.2016.

7. A perusal of the seven charges that are framed against the petitioner are all very proximate to each other. When seven charges which are extracted herein above are looked into with an open mind, the same does not appear to be of serious nature nor they pertain to the efficiency or inability or non-suitability of the petitioner to continue her as 'Secondary Grade Teacher'. All the charges on the face of them are trivial in nature. It is only on considering the non-serious nature of the charges levelled against the petitioner and also on taking note of the infirmities or lacunas in the process of conducting enquiry into seven charges, the 3rd respondent herein issued the proceedings bearing Na.Ka.No.5075/A4/2016, dated 26.05.2017 refusing to grant permission to terminate the services of the petitioner.

8. In this regard, the counter-affidavit filed by the 3rd respondent in W.P.No.13956 of 2017 becomes relevant and the relevant portion from the



said counter-affidavit i.e., Paragraph Nos.7 to 9 and Paragraph No.21 reads as

under:-

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“7.Regarding the averments in para 4 of the affidavit of the petitioner, it is submitted that a careful perusal of the charges framed against the 5th respondent reveals that none of the charges relates to the specific performance of the 5th respondent with regard to the merit and ability of the students of the class in which the 5th respondent with regard to the merit and ability of the students of the class in which the 5th respondent is teaching. It is also submitted that though the petitioner has stated that the 5th respondent has warned several times, there is no record to show for such warning. It is submitted that the use of Cell phone in the School, during teaching hours has been prohibited. This charge has been framed only on the basis of a Complaint by the President of Parent and Teachers Association Dt. 21.10.2016. But it has not been explained that at what time he has visited the School and whether the HeadMaster has accompanied with him. It is submitted that there is so many contradictions in the statements of the witnesses examined by the Enquiry Officer. Hence this contention of the petitioner has no merit.



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8. *Regarding the averments in para 5 of the affidavit of the petitioner, it is submitted that during the course of enquiry conducted by the 2nd respondent, the 5th respondent has denied the charge that she has refused to receive the Circular issued by the Management Dated 7.9.2016. If the 5th respondent refused to receive the circular, the Head of the Institution should have issued Show cause notice and made a report to the competent authority immediately thereafter. Without doing so, charge has been framed only after a lapse of two months ie. on 7.11.2016. The unexplained delay leads to suspicion on the genuineness of the charge. It is further submitted that though the specific charge No.3 stating that the 5th respondent has left the School without getting permission from the HeadMaster and without making entries in Movement Register on 20.10.2016, 21.10.2016, and 24.10.2016, the HeadMaster speaks about the absence of the 5th respondent during lunch hours and not duty hours. It is further submitted that it has not been explained as to whether the President of the Parent and Teachers Association has powers to visit or supervise the School during working hours without the knowledge of the HeadMaster who is official incharge of the Institution and as to whether the President has previously visited*



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the School and made any other remarks about the School Maintenance. In the absence of any records the visit of the School by the President of the Parent and Teachers Association has been organized only to find fault on the 5th respondent only.

9. Regarding the averments in para 6 of the affidavit of the petitioner. It is submitted that a perusal of the Memo. issued by the petitioner dated 31.10.2016 reveals that though specific charge has been made against the 5th respondent stating that (1) she has disobeyed the order of the superior (2) that she has used the Cell phone in the class room and (3) left the Class room during school time. But there was no mention about the refusal to receive the circular issued by the petitioner/Management. But while making specific charges on a later date i.e. on 22.11.2016 it is stated that the 5th respondent has refused to receive the Circular. It is further submitted that the 5th respondent has given her explanation to the charges on the very next day on 1.11.2016. It is further submitted that meeting the Secretary of the School by the staff of the School in the residence of the Secretary for the purpose of any matters relating to the School Management or grievance is usual one. But any untoward incident at the



time of such visit has to be reconciled between them. In the absence of any independent evidence such allegations made by the petitioner against 5th respondent cannot stand to reason.

...

21.Regarding the averments in ground 'h' of the affidavit of the it is submitted that the enquiry is only quasi judicial in nature. While petitioner, so, the Management has appointed one Retired District Judge as the Enquiry Officer in this case. It is submitted the witnesses produced on behalf of the School Management has categorically deposed during cross examination as follows:-

1. தொடக்கக் கல்வி அலுவலர் குற்றம் சாட்டப்பட்ட ஆசிரியர் பள்ளி நேரங்களில் அலுவலகத்திற்கு வந்ததாக எழுத்து மூலமான புகார் ஏதாவது கொடுத்துள்ளதாரா என்றால் இல்லை.



2. குற்றம் சாட்டப்பட்ட ஆசிரியைக்கு வழங்கப்பட்ட நகர்வுப் பதிவேட்டின் நகல் 08.01.2016 தொடங்கி 02.01.2017 ல் முடிகிறது. அதில் உதவி தொடக்கக் கல்வி அலுவலரின் கையொப்பம் ஏதம் இல்லை என்றால் சரிதான்.

3. குற்றம் சாட்டப்பட்ட ஆசிரியை குறிப்பிட்ட நாளில் குறிப்பிட்ட வகுப்பிற்கு குறிப்பிட்ட நேரத்தில் பாடம் நடத்தவில்லை என்றும், வகுப்பறையில் இல்லை என்றும் குறிப்பாக குற்றச்சாட்டில் இல்லை என்றால் இல்லை.

4. 4வது குற்றச்சாட்டு குறித்து தாளாளர் பள்ளி நிர்வாகத்திற்கு புகார் கொடுத்துள்ளாரா என்றால் இல்லை

5. பள்ளிக்குழு சார்பில் ஆசிரியர் இளந்தென்றளின் கைபேசி சம்பந்தப்பட்ட அழைப்பு விபரங்களை கேட்டுப்பெற்று சரிபார்த்தோம் என்றால் இல்லை.



6. மதிய உணவு இடைவேளை என்றாலும் வகுப்பறையிலேயேதான் இருக்கவேண்டும்.
7. பள்ளி ஆசிரியர்களுக்கென்று ஓய்வு அறைகள் ஏதம் இல்லை
8. எங்கள் பள்ளி நிர்வாகத்தில் பராமரிக்கப்படும் சுற்றறிக்கை பதிவேட்டின் ஆவணத்தில் உண்மை நகல் உள்ளது. அந்த உண்மை நகலை இந்த விசாரணையில் தாக்கல் செய்யவில்லை என்றால் இல்லை.

As is evident from the above there are Number of contradictory statement by the witnesses. It is submitted that only after careful examination of the records of enquiry and conclusion of the School Committee, the 2nd respondent passed the order rejecting the proposal and the reason for such rejection has also been discussed in the above orders. Hence this contention of the petitioner has no bearing. ”

9. The translated version of the seven charges is also placed before this Court and this Court has thoroughly gone through the said charges and is



very much convinced that the proposed punishment of termination basing upon the seven charges levelled against the petitioner is totally arbitrary and illegal. Even if all the seven charges are held proved against the petitioner also, the same does not warrant imposing the punishment of termination from service, especially in the context of the fact that the petitioner had already completed 10 years of unblemished service by then. Taking into consideration the reasoning given by the 3rd respondent in his order dated 26.05.2017 and the counter-affidavit filed in W.P.No.13956 of 2017 as extracted above, this Court is convinced that the 3rd respondent herein is fully justified in refusing to grant prior approval under Section 22 of the Tamil Nadu Recognized Private Schools Act, 1973. Nothing is brought to the notice of this Court to find fault with the reasoning given by the 3rd respondent while refusing to grant approval.

10. As already noted above, this Court is also thoroughly convinced that the seven charges framed against the petitioner are trivial in nature and under no circumstances, such charges would result in imposing the punishment of termination from service. In the light of the above, this Court is convinced that the 3rd respondent is justified in refusing to grant prior



approval to terminate the services of the petitioner through proceedings dated 26.05.2017 and therefore, this Court is not inclined to interfere with the proceedings dated 26.05.2017 issued by the 3rd respondent which is impugned in W.P.No.13956 of 2017.

11. Then coming to W.P.No.31013 of 2019 filed by the petitioner aggrieved by the order of termination dated 30.07.2018 and the order dated 06.03.2018 passed by the 2nd respondent on the appeal filed by the petitioner needs to be considered. As noted above, the petitioner herein was appointed as 'Secondary Grade Teacher' on 24.04.2006 by the erstwhile Management of the 4th respondent School. The Management of the 4th respondent School was transferred with effect from 01.12.2014. Even after changing of the Management also, the petitioner worked for about 2 years and she was also extended the benefit of Selection-Grade on completion of 10 years of service through proceedings dated 21.08.2016. Immediately thereafter, the petitioner was placed under suspension on 07.11.2016. The 4th respondent herein having made an attempt to terminate the services of the petitioner, failed to obtain prior approval from the 3rd respondent and finally approached this Court by filing W.P.No.13956 of 2017 on 04.06.2017. It is thereafter a



complaint against the appointment of the petitioner was made on 21.06.2017 directing to Government and the same was supported by a Letter of her husband who happens to an Ex-member of Rajya Sabha. Perhaps, it is only on noticing that the 4th respondent herein cannot succeed in W.P.No.13956 of 2017, the 4th respondent resorted to making a complaint against the appointment of the petitioner. By the date of making such a complaint on 21.06.2017, the petitioner had already completed more than 11 years of service as a Secondary Grade Teacher in the 4th respondent School.

12. As already noted above, the appointment of the petitioner as 'Secondary Grade Teacher' was already approved by the 3rd respondent herein who is the competent authority to approve such an appointment through proceedings dated 30.04.2007. From the enquiry that was conducted pursuant to the direction issued by the Director of Elementary Education, certain irregularities said to have been committed while appointing the petitioner are stated to have come to light. The said irregularities were committed by the erstwhile Management of the 4th respondent School. The 4th respondent herein being Successor in the interest of the erstwhile Management is bound by the acts of the erstwhile Management as well. But the 4th respondent



having made an attempt to terminate the services of the petitioner by framing seven charges and having failed to achieve the same, resorted to digging out the buried acts of its predecessor and made a complaint to the Government. Obviously, the President of the School Committee and the Husband of the 4th respondent who happens to be an Ex-member of the Rajya Sabha got issued appropriate orders from the Government and the Director of the Elementary Education paving way to facilitate the 4th respondent to terminate the services of the petitioner. Even assuming that there are certain irregularities committed by the erstwhile Management of the School in question in appointing the petitioner as 'Secondary Grade Teacher', whether it is justified to re-open the said aspect after a lapse of more than a decade or not is the matter that needs to be considered.

13. The next question that would arise for consideration is as to whether the 4th respondent is justified in digging out the happenings that had taken place more than a decade ago in the facts and circumstances of the case or not? The petitioner herein cannot be expected to prove that her appointment was made in accordance with law that to after long lapse of time. In fact, it is for the 4th respondent, being Successor in the interest of the



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erstwhile Management to justify the appointment of the petitioner as 'Secondary Grade Teacher'. Even otherwise, the entire records pertaining to the appointment of the petitioner is under the control of the 4th respondent. Thus, the 4th respondent obviously acted at every stage to suit its convenience and to say that the appointment of the petitioner herein was not in accordance with law. In fact when the appointment of the petitioner was found to be not in accordance with law, the affected party may be the petitioner, but the culprit is the 4th respondent herein or the erstwhile Management. But, there is nothing on record to show that any of the respondents 1 to 3 have raised their little finger against the 4th respondent or the erstwhile Management, but the entire concentration is towards targeting the petitioner.

14. From the counter-affidavit filed by the 2nd respondent, the irregularities in appointing the petitioner as 'Secondary Grade Teacher' in the year 2006 are as under:-

“(i) Not getting any prior permission for directly recruiting from the competent authority as per Rule 15(4) (c) of the Tamil Nadu Private School Regulation Rules, 1974;

(ii) No newspaper advertisement and sponsoring



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of candidates from employment exchange were sought by the management as mandated in GO No.4 Education Department dated 19.01.2004;

(iii) A non-existent fictitious character was created in the name of one Raja to fraudulently jump the communal turn from MBC to BC as if he joined and resigned in no time.”

15. Even assuming that the above irregularities exist in the appointment of the petitioner, in the considered view of this Court, the same shall not result in termination of services of the petitioner after a lapse of about 12 years. It is not as if the petitioner is not qualified to hold the post of 'Secondary Grade Teacher' or she is not capable of discharging her duties as 'Secondary Grade Teacher'. Hence, the action of the 4th respondent in terminating the services of the petitioner after a lapse of about 12 years ought not have been accepted by the 3rd respondent by granting prior approval.

16. From the perusal of the material on record, it is noticed that the petitioner herein, at the very initial stage itself has taken a stand that the Husband of the 4th respondent herein had misbehaved with her requiring her to act as per his commands and it only on the refusal of the petitioner to



accede to his demands, the entire episode of the disciplinary proceedings were initiated. Though very same allegations are levelled in the appeal filed before the 2nd respondent herein against the order of termination dated 30.07.2018, the 2nd respondent herein surprisingly in an arbitrary manner refused to go into those aspects on the ground that the said allegations are not the subject matter of the order of termination. When the petitioner tried to explain the reasons for initiating disciplinary proceedings and subsequent orders of termination of her services is because of the prejudicial attitude developed by the Husband of the 4th respondent, who also happens to be President of the School Committee and an Ex-member of Rajya Sabha, the 2nd respondent herein ought to have looked into such allegations and examined the validity of order of termination of the petitioner. But the 4th respondent failed to look into these aspects while passing the order dated 26.08.2019.

17. The reliance placed by learned counsel for the 2nd respondent on a decision of the High Court of Jammu & Kashmir in the case of ***“Mtr.Mehmooda -vs- State of Jammu & Kashmir”*** in C.S.A.No.13 of 2004 dated 02.12.2022 has no application to the case on hand. Paragraph No.20 of the said decision relied upon by the learned counsel for the 4th respondent



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reads as under:-

“20) Having come to the conclusion that the plaintiff had failed to prove her appointment, her mere continuance in the defendant department for about fifteen years would not entitle her to continue in service. The cases relied upon by learned counsel for the plaintiff relate to appointments that were irregular in nature or to the appointments that were made by incompetent authorities. In the instant case, the very appointment of the plaintiff is fraudulent in nature and, in fact, no appointment order has been made in her favour. Therefore, mere continuance of the plaintiff in service for a long period of time would not debar the State authorities from discontinuing such fraudulent appointment and they cannot be compelled to pay salary to the plaintiff on the basis of an action which has never been taken by the defendants.”

This is a case where, without there being any appointment order, the



petitioner was continued in service and therefore, the High Court of Jammu & Kashmir came to the conclusion that in the absence of any appointment order itself, any amount of continuance in service will not debar the said authorities from discontinuing the petitioner herein. In the present case, it is not a case where there is no appointment order, on the other hand, admittedly there was an appointment order which was approved by the 3rd respondent as early as in the year 2007 itself and the petitioner continued in service for more than 12 years with unblemished service. Therefore, the said decision has no application to the facts of the case on hand.

18. In the light of the above, this Court is convinced that the 4th respondent herein having failed to terminate the services of the petitioner inspite of framing seven charges, made a complaint to the Government with a *malafide* intention to somehow terminate the services of the petitioner and achieve its object with influence of the President of the School Committee, who happens to be an Ex.Member of Rajya Sabha and got the reports favourable to it while the petitioner herein has no access to the records relating to her appointment and achieved its object in terminating the services of the petitioner. The 2nd respondent herein also failed to look into



these aspects in proper perspective and appears to have carried away by an impression given by the 4th respondent on the appointment of the petitioner as 'Secondary Grade Teacher'. In the circumstances, in the considered view of this Court, the impugned order of termination dated 30.07.2018 and the orders dated 26.08.2019 passed by the 2nd respondent herein confirming the order dated 30.07.2018 are wholly unsustainable under law and are liable to be set aside. Accordingly, the impugned orders dated 30.07.2018 and 26.08.2019 are hereby set aside.

19. Then coming to W.P.No.3603 of 2018, wherein the petitioner sought for the relief of reinstatement into service on payment of consequential monetary benefits has to be considered. Once the petitioner was placed under suspension on 07.11.2016, in terms of Sub-Section (3) of Section 22 of the Tamil Nadu Recognized Private Schools Act, 1973 cannot be continued under suspension beyond a period of two months in the absence of conclusion of disciplinary proceedings. If the enquiry or disciplinary proceedings are not concluded within that period of two months, the Teacher is deemed to have been restored as Teacher or other employee of the educational institutions. Admittedly, there is no extension of suspension



beyond 4 months and therefore, the petitioner is deemed to have been restored to the post of 'Secondary Grade Teacher' with effect from 07.03.2017. But for the reasons best known, the 4th respondent has not passed any orders reinstating the petitioner inspite of refusal to grant approval for termination through proceedings dated 26.05.2017 till the date of issuing the orders of termination, through orders dated 30.07.2018. Thus, by operation of Clause (b) of Sub-Section (3) of Section 22 of the Tamil Nadu Recognized Private Schools Act, 1973, the petitioner is deemed to have been restored to his position as 'Secondary Grade Teacher' with effect from 07.03.2017 and deemed to have continued till 30.07.2018 on which date the services of the petitioner were terminated. Consequent upon the setting aside of the said order dated 30.07.2018 and the order passed in Appeal by the 2nd respondent dated 26.08.2019, the petitioner is entitled for reinstatement into service with all consequential benefits.

20. In the light of the above, W.P.No.13956 of 2017 filed by the 4th respondent shall stands **dismissed** and W.P.No.3603 of 2018 and W.P.No.31013 of 2019 filed by the petitioner shall stand **allowed**. As the 4th respondent is responsible for getting the petitioner out of service for all these



years, the respondents 1 to 3 cannot be made liable to pay all consequential benefits consequent upon allowing of the Writ Petitions filed by the petitioner herein and this Court is of the considered view that the 4th respondent herein shall alone be made liable to pay all the amounts that are payable to the petitioner consequent upon allowing the Writ Petitions. Accordingly, the 4th respondent is directed to forthwith reinstate the petitioner into service as a Secondary Grade Teacher in the 4th respondent School and treat her as in service with effect from 07.03.2017 till the date of reinstatement and pay all consequential benefits treating as if the petitioner continued in service and all the benefits that are payable to the petitioner shall be paid as expeditiously as possible at any rate within a period of three months from the date of receipt of a copy of this order. No costs. Connected Miscellaneous Petitions, if any shall stand closed.

29.07.2024

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Director of Elementary Education,
DPI Complex College Road, Chennai.



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2. The District Elementary Educational Officer,
O/o the District Elementary Educational Office,
Old Railway Station, Erode, Erode District.
3. The Assistant Elementary Educational Officer,
Ammapettai, Anthiyur Taluk, Erode District.
4. The Joint Director (Aided Schools),
Tamil Nadu Elementary Education,
DPI Complex College Road, Chennai.
5. The Chief Educational Officer, Erode District, Erode.
6. The District Educational Officer, Bhavani Educational District,
Bhavani, Erode District.
7. The Correspondent/ Secretary,
Periyasamy Aided Elementary School,
Mettur Main Road,
Ammapettai, Bhavani Taluk,
Erode District – 638 311



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W.P.Nos.13956 of 2017, 3603 of 2018 and 31013 of

MUMMINENI SUDHEER KUMAR, J.

skr

Pre-Delivery Order made in
W.P.Nos.13956 of 2017, 3603 of 2018 and 31013 of 2019

29.07.2024