

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Writ Petition No.12809 of 2015 and
M.P.Nos.1 and 2 of 2015

R.Saravanamuthu

...Petitioner

vs.

1.The Director of School Education,
Chennai - 600 006.

2.The Chief Educational Officer,
Nagapattinam.

3.The Head Master,
Government Girls Higher Secondary School,
Vedaranyam, Nagapattinam District.

...Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of certiorarified mandamus, calling for the production of records relating to proceedings dated 01.10.2014 made in R.C.No.78588/VV3/E3/14 passed by the first respondent herein, quash the same and direct the first respondent to permit the petitioner to resume the petitioner to work as P.G.Assistant (English) in Government Girls Higher Secondary School, Vedaranyam, Nagapattinam District.

For Petitioner : Mr.S.Senthilnathan

For Respondents : Mr.K.V.Dhanapalan
Addl.Govt.Pleader

O R D E R

The petitioner was working as PG Assistant (English) in Government Girls Higher Secondary School, Vedaranyam. He was placed under suspension by order dated 01.10.2014 under under Rule 17(e) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, contemplating departmental action.

2. When the writ petition came up for admission on 28.04.2015, this Court passed the following order:-

"Now it has been well settled by the judgment of the Apex Court that the employee cannot be placed under suspension pending disciplinary action more than three months without issuing charge memo. As per the averment made in the affidavit, though the petitioner was placed under suspension on 01.10.2014, it is stated that no charge memo is issued.

Learned Additional Government Pleader is directed to get instruction as to whether the charge memo has been issued."

3. Today, when the matter is taken up for hearing, the learned Additional Government Pleader is not able to state as to whether charge memo is issued or not as against the petitioner.

4. In paragraph 4 of the affidavit filed in support of the writ petition, the petitioner has categorically stated that no charge memo is issued.

5. The learned counsel for the petitioner placed reliance on the judgment of the Hon'ble Apex Court reported in CDC 2015 SC 129 [Ajay Kumar Choudhary v. Union of India through its Secretary and another], in support of his contention that no employee can be placed under suspension, pending departmental action for more than three months if charge sheet is not issued. In this context, paragraph 14 of the judgment is extracted hereunder:-

"14. We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges/Chargesheet is not served on the delinquent officer/employee; if the Memorandum of Charges/Chargesheet is served a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the concerned person to any Department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that previous Constitution Benches have been reluctant to quash proceedings on the ground of delay, and to set time limits to their duration. However, the imposition of a limit on the period of suspension has

not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us."

6. Heard both sides.

7. In the light of the aforesaid judgment of the Apex Court, the writ petition is disposed of, directing the first respondent to permit the petitioner to resume duty forthwith. However, this would not preclude the department from proceeding against the petitioner by issuing charge sheet and holding enquiry and passing final orders thereon. No costs. Consequently, connected miscellaneous petitions are closed.

svki

-s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

- 1.The Director of School Education,
Chennai - 600 006.
- 2.The Chief Educational Officer,
Nagapattinam.
- 3.The Head Master,
Government Girls Higher Secondary School, Vedaranyam,
Nagapattinam District.

+ 1 cc to Mr.S.Senthilnathan, Advocate SR 24139

+ 1 cc to Govt.Pleader SR 24139

rsy(co)
prk6/5

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