

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.03.2015

Coram

The Honourable Mr.Justice K.K.SASIDHARAN

W.P.No.23922 of 2014
and
M.P.No.1 of 2015

T.Jeyarani

.. Petitioner

vs.

1.The Director of School Education,
College Road,
Chennai.

2.The Chief Educational Officer,
Saidapet,
Chennai-15

3.The District Educational Officer,
Chennai North,
Chennai.

4.The Secretary,
T.V.K.Higher Secondary School,
Shenoy Nagar,
Chennai-600 030

.... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the entire records pertaining to the impugned charge Memo in Na.Ka.No.123/D.P/2014, dated 01.08.2014 and impugned suspension order in Rc.No.123/dated 1.08.2014 of the 4th respondent and to quash the same and consequently direct the 4th respondent to reinstate the petitioner in the post of Assistant Headmistress of the said school with full attendant benefits (full salary) including suspension period for the petitioner.

For Petitioner : Mr.Perumpulavil Radhakrishnan for
Mr.S.Srinivasan

For respondents : Mr.P.Sanjaygandhi,A.G.P.
for RR1 to 3
R4 No appearance

ORDER

The petitioner challenges the charge memo dated 1.08.2014 and the related order of suspension issued by the fourth respondent on various grounds.

2. The petitioner was appointed as P.G. Assistant by the fourth respondent in January 2000. While she was working in the said capacity, the fourth respondent suspended her from service pursuant to the proceedings, dated 24.10.2013, on the file of second respondent. The fourth respondent issued a charge memo dated 1.8.2014, alleging that the petitioner awarded higher marks to certain students, who failed in maths subject in the instant examination. The second charge was consequential to the first charge.

3. The charge memo is challenged on the ground that the petitioner was not authorised to award marks. The suspension order is challenged on the ground that mandatory concurrence was not obtained from the education department.

4. Even though the name of the fourth respondent is printed in the cause list, none appears.

5. Heard the petitioner, who appeared as party in person and the learned Additional Government Pleader on behalf of R1 to R3.

6. The charge memo was issued on 1.08.2014. The petitioner has already submitted her explanation to the charge memo on 12.8.2014. The fourth respondent is yet to appoint the enquiry officer. There is no question of quashing the charge memo at this point of time. Therefore, I am of the view that the petitioner has not made out a case for quashing the charge memo.

7. The other question relates to the legality and correctness of the suspension order dated 1.8.2014.

8. There is no dispute that the petitioner was placed under suspension by order dated 1.8.2014. Section 22(3)(b) of the Tamil Nadu Recognised Private Schools (Regulation), Act, 1973 provides that no suspension shall remain in force for more than a period of two months from the date of suspension if enquiry is not completed within that period. The proviso to the said provision permits extension of suspension for a period of two months in case approval is given by the competent authority.

9. The learned Additional Government Pleader, on instructions, submitted that the second respondent has not given permission to extend the period of suspension.

10. The suspension order issued on 1.8.2014 expired on 30.09.2014. There is nothing on record to show that the competent authority extended the period of suspension by exercising the power conferred under proviso to Section 22(3)(b) of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973. Though the order of suspension was valid as on the date on which it was issued, it lapsed automatically, as it is not extended with the concurrence of the competent authority. I am therefore of the view that the petitioner must succeed.

11. In the result, the order of suspension dated 1.8.2014 is set aside. The fourth respondent is directed to reinstate the petitioner into service forthwith on production of a copy of this order. There shall be a further direction to the fourth respondent to conclude the enquiry proceedings initiated against the petitioner as expeditiously as possible and in any case within a period of four months from the date of receipt of a copy of this order.

12. The writ petition is allowed to the extent indicated above. No costs. Connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

msk

To

1.The Director of School Education,
College Road,
Chennai.

2.The Chief Educational Officer,
Saidapet,
Chennai-15

3.The District Educational Officer,
Chennai North,
Chennai.

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