

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2016

CORAM

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.No.26383 of 2016

P.Arivazhagan

.. Petitioner

Versus

1. The Director of Elementary Education,
Directorate, DPI Campus,
College Road, Chennai - 600 006.
2. The District Elementary Educational Officer,
Cuddalore - 1, Cuddalore District.
3. The Assistant Elementary Educational Officer,
Kammapuram Union,
Cuddalore District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the respondents herein to consider the representation of the petitioner dated 02.07.2016, to revoke the suspension and reinstate the petitioner in service with effect from 01.12.2011 and grant all attendant benefits to the petitioner.

For Petitioner : Mrs. AL.Ganthimathi
For Respondents : Mr.Digvijay Pandian
Additional Govt. Pleader

ORDER

By consent, this Writ Petition is taken up and disposed of at the stage of admission itself.

2. This Writ Petition has been filed seeking for the issuance of Writ of Mandamus, to direct the respondents to consider the representation of the petitioner dated 02.07.2016, seeking revocation of suspension from service and to reinstate him in service with effect from 01.12.2011 and to grant him all attendant benefits.

3. The petitioner was appointed as Junior Assistsant in the Government Higher Secondary School, Nagalur on 13.08.1998

and he was transferred to the office of the Assistant Elementary Educational Officer, Chinnasalem, Villupuram District in the year 2002. He was subsequently transferred to the office of the 2nd respondent in the year 2005. While so, he was placed under suspension by the proceedings of the second respondent dated 01.12.2011. A criminal case was also registered against the petitioner. The petitioner made representations to the respondents 2 and 3, on 01.06.2012 and 01.07.2012, seeking to revoke his suspension and to reinstate him in service. Thereafter, the second respondent issued a charge memo dated 17.07.2012 to the petitioner, calling upon him to submit his explanation to the charges stated therein, within 15 days from the date of receipt of a copy of the memorandum. The petitioner submitted his explanation on 12.09.2012, denying all charges. According to the petitioner, thereafter, the respondents have not taken any further proceedings. Aggrieved against the same, the petitioner filed a writ petition W.P.No.23968 of 2013 before this Court and this Court, by an order dated 29.08.2013, disposed of the writ petition by directing the first respondent, namely, the District Elementary Educational Officer, Cuddalore, to complete the disciplinary proceedings pursuant to the charge memo dated 17.07.2012 and pass final orders thereon within a period of six months from the date of receipt of a copy of the order. Pursuant to the order of this Court, an Enquiry Officer was appointed and enquiry was conducted on 02.03.2016. But, till date, final order has not been passed. The petitioner has therefore made a representation to the respondents on 02.07.2016, seeking to revoke his suspension and re-instate him in service. It is also the grievance of the petitioner that during the period of suspension, he was not paid the subsistence allowance. Hence, the petitioner has filed the present writ petition seeking a direction to the respondents to consider his representation dated 02.07.2016.

4. The learned counsel appearing for the petitioner would submit that the petitioner has been kept under prolonged suspension for the past more than four years. Subsequently, the Enquiry Officer was appointed and enquiry was conducted on 02.03.2016. But, till date, final order has not been passed by the 2nd respondent. She would further point out that during the period of suspension, the petitioner has not been paid the subsistence allowance, which is a manifest illegality, therefore, the very suspension order lacks merit. She would also submit that the petitioner was kept under prolonged suspension, a practice deprecated by the Hon'ble Apex Court in the case of Ajay Kumar Choudhary vs. Union of India through its Secretary and another passed in Civil Appeal No.1912 of 2015 dated 16.02.2015. Hence, she prayed for issuing appropriate direction to the respondents.

5. Mr.Digvijay Pandian, the learned Additional Government Pleader, who takes notice for the respondents, would contend that the respondents would pass final orders in the disciplinary proceedings conducted against the petitioner.

6. I heard the counsel for both sides. Admittedly, an enquiry was conducted and it was also completed. This is evident from a letter written by the petitioner which is available in page No. 25 of the typed set of papers, whereunder, the petitioner has stated that the enquiry was conducted by following the procedures established under law. The grievance of the petitioner is that final order has not been passed in the disciplinary proceedings initiated against the petitioner. Having regard to the above facts and circumstances of the case, this writ petition is disposed of with a direction to the respondents to pass final orders in the disciplinary proceedings initiated against the petitioner within a period of two months from the date of receipt of a copy of this order. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Director of Elementary Education,
Directorate, DPI Campus,
College Road, Chennai - 600 006.
2. The District Elementary Educational Officer,
Cuddalore - 1, Cuddalore District.
3. The Assistant Elementary Educational Officer,
Kammapuram Union,
Cuddalore District

+1 cc to Government Pleader sr.43026

+1 cc to Mrs.A.L.Gandhimathi Advocate sr.43106

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aa12/08/2016